

1 IN THE UNITED STATES DISTRICT COURT FOR THE
 2 NORTHERN DISTRICT OF OKLAHOMA
 3
 4

5 W. A. DREW EDMONDSON, in his)
 capacity as ATTORNEY GENERAL)
 6 OF THE STATE OF OKLAHOMA and)
 OKLAHOMA SECRETARY OF THE)
 ENVIRONMENT C. MILES TOLBERT,)
 7 in his capacity as the)
 TRUSTEE FOR NATURAL RESOURCES)
 8 FOR THE STATE OF OKLAHOMA,)

9 Plaintiff,)

10 vs.)

4:05-CV-00329-TCK-SAJ

11 TYSON FOODS, INC., et al,)

12 Defendants.)

13 - - - - -

14 VOLUME II OF THE VIDEOTAPED
 15 30(b)(6) DEPOSITION OF TIM ALSUP, produced as a
 16 witness on behalf of the Plaintiff in the above
 17 styled and numbered cause, taken on the 25th day of
 18 June, 2008, in the City of Tulsa, County of Tulsa,
 19 State of Oklahoma, before me, Lisa A. Steinmeyer, a
 20 Certified Shorthand Reporter, duly certified under
 21 and by virtue of the laws of the State of Oklahoma.
 22
 23
 24
 25

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I N D E X

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P A G E

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1 (Whereupon, the deposition
2 began at 9:05 a.m.)

3 VIDEOGRAPHER: We are you now on the Record
4 for Volume II of the deposition of Tim Alsup. Today
5 is June 25th, 2008. The time is 9:04 a.m. Would 09:05AM
6 counsel please identify themselves for the Record?

7 MR. GARREN: Richard Garren for the State
8 of Oklahoma, and with me from my office is Pat
9 Green.

10 MR. BULLOCK: Louis Bullock for the State 09:05AM
11 of Oklahoma.

12 MR. WALKER: Todd Walker for the Cargill
13 defendants, and with me is John Tucker.

14 MR. BOND: Michael Bond for Tyson Foods,
15 Tyson Chicken and Tyson Poultry and Cobb-Vantress. 09:05AM

16 MR. HIXON: Philip Hixon for Peterson
17 Farms, Inc.

18 MR. FREEMAN: Bruce Freeman for Simmons.

19 MS. HILL: Theresa Hill for the Cargill
20 defendants. 09:05AM

21 VIDEOGRAPHER: Thank you.

22 MR. GARREN: Who is on the phone today?
23 Mr. Graves, make your announcement.

24 MR. GRAVES: This is James Graves on behalf
25 of George's and George's Farms. 09:05AM

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1 MR. GARREN: Anyone else?

2 MR. GRAVES: No.

3 MR. GARREN: We'll invoke the Rule of
4 Sequestration for purposes of those on the phone.

5 If you have someone come in the room or you are 09:06AM
6 going to leave, please announce that in the Record
7 so we can have it recorded, please. Todd, did you
8 want to --

9 MR. WALKER: Yeah. Mr. Garren, I just
10 wanted to put on the Record what I told you a moment 09:06AM
11 ago. Yesterday you asked Mr. Alsup some questions
12 about Cargill, Inc.'s knowledge of historical land
13 application activities at the breeder farms. As the
14 State knows, we've designated two witnesses to talk
15 about that topic, which I believe is No. 29 on your 09:06AM
16 notice for Cargill, Inc.

17 Rather than wait for the second witness to
18 testify to additional information on that topic to
19 which Mr. Alsup didn't know yesterday, I asked him
20 to do some investigation. My understanding is he's 09:06AM
21 done so and he has additional information if you
22 want to ask more questions on that topic of him
23 today.

24 MR. GARREN: Thank you.

25 TIM ALSUP

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1 having first been duly sworn to testify the truth,
2 the whole truth and nothing but the truth, testified
3 as follows:

4 DIRECT EXAMINATION

5 BY MR. GARREN:

09:07AM

6 Q Based on that announcement, I do have some
7 questions for you. First off, who did you talk to
8 or what did you do to prepare yourself for
9 additional information regarding the issue of the
10 land application of poultry waste from the breeder
11 farm or farms?

09:07AM

12 MR. WALKER: Object to the form.

13 A I called Cecilia Huertado.

14 Q You'll need to spell that, if you can, for the
15 Record.

09:07AM

16 A H-U-E-R-T-A-D-O.

17 Q Okay, and where is she located?

18 A She is the breeder farm manager at 6, Farm 6.

19 Q Did you talk to anyone else?

20 A Yes. Roy Barnard.

09:07AM

21 Q Is that Bernard, B-E-R-N-A-R-D?

22 A I think it's B-A-R-N-A-R-D.

23 Q And what does he do?

24 A He is a grow-out manager in California,
25 Missouri.

09:08AM

1 Q Did you talk to anyone else?

2 A No, sir.

3 Q Did you review any documents with regard to
4 that subject matter?

5 A No, sir. 09:08AM

6 Q When you talked to Miss Herato or Miss
7 Huertado, what did you ask her and what did she say?

8 A I asked Cecilia what did she remember about
9 when farms were being cleaned out, what did she
10 remember happening to the litter, and that's what 09:08AM
11 she told me what she remembered.

12 Q What did she tell you?

13 A That a contractor would come in and clean out
14 the houses and take most of the litter away and it
15 was -- she didn't know exactly where it went. She 09:09AM
16 thought it went to adjacent land, adjacent
17 farmlands, and then some of it was spread on the
18 breeder farms.

19 Q Did you talk to any other breeder farm manager
20 other than this one at Farm 6? 09:09AM

21 A No, sir.

22 Q Did you make an attempt to inquire as to the
23 breeder farm managers at those farms numbered 1
24 through 5?

25 A No, sir. 09:09AM

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1 Q Did you at any time in your preparation for
2 this deposition, not just today but yesterday, too,
3 contact Mr. Charlie Delap to ask him about what he
4 knew to be the history of the land application of
5 poultry waste from those facilities?

09:09AM

6 A I had not talked to Charlie about, the '90's
7 or before I guess, it would be CTP, LLC.

8 Q So you did talk to Charlie Delap about the
9 time frame after June 1, 2004 relative to the land
10 application of poultry waste; is that what you're
11 saying?

09:10AM

12 A Yes, sir, uh-huh.

13 Q Okay, and when did you talk to him?

14 A A month and a half ago.

15 Q And was that in preparation for your 30(b)(6)
16 deposition?

09:10AM

17 A Yes.

18 Q He wasn't on the list yesterday that you told
19 me you talked to. Is there anyone else that you
20 failed to tell us that you talked to in preparation
21 for your 30(b)(6) witness deposition?

09:10AM

22 MR. WALKER: Object to the form.

23 A No, sir, not that I can think of.

24 Q When you talked to Charlie Delap, first off,
25 what manager -- which facility did he act as manager

09:10AM

1 for?

2 A He was the breeder manager.

3 Q He was a manager over all breeder farms then?

4 A Yes, sir.

5 Q And when you talked to him, where was he 09:11AM
6 located?

7 A His office.

8 Q He was still employed with Cargill, LLC, at
9 that time?

10 A Yes, sir. 09:11AM

11 Q He later was terminated; correct?

12 A Yes, sir.

13 Q Did you talk to him at any time after his
14 termination?

15 A No, sir. 09:11AM

16 Q Why did you not attempt to contact any other
17 farm managers at the Cargill facilities?

18 MR. GARREN: Anybody make an appearance
19 there? Anybody leave?

20 MS. BRONSON: Vicki Bronson. I'm sorry. 09:11AM

21 Q Why did you not ask any other managers at the
22 breeder farms about their recollection of the
23 disposition of poultry waste from those facilities?

24 A The other breeder farm managers are all
25 relatively new. They wouldn't have had any 09:12AM

1 knowledge of that.

2 Q How long was Charlie Delap a breeder manager?

3 A Sometime in the early to mid '90's to this
4 fall or this spring, this last spring.

5 Q Spring of 2008? 09:12AM

6 A Yes, sir.

7 Q And is there a month in the spring that you
8 can recall when he was terminated?

9 A May.

10 Q Did Miss Huertado tell you anything else than 09:12AM
11 what you've told me today about the spreading of
12 waste from those facilities?

13 MR. WALKER: Object to the form.

14 A You mean like what?

15 Q Well, anything else about the subject that you 09:13AM
16 haven't told me previously today; is there anything
17 else you discussed, talked about in or around that
18 subject matter of the disposition of poultry waste
19 from the breeder facilities?

20 A I asked her to -- after she told me -- after 09:13AM
21 she told me that a lot of the litter was hauled
22 away, some of it was applied, I said, well, tell me
23 -- just give me an estimation of what amount of
24 litter do you think was hauled away and what was
25 applied, and in her own words she said 10 percent 09:13AM

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1 was applied, 90 percent was hauled away.

2 Q Did you ask her how she made that estimate?

3 A I asked -- no. From her memory. I said, tell
4 me from what you remember.

5 Q Do you know whether or not she had to 09:14AM
6 reference or did reference any documents in order to
7 assist you in answering the questions?

8 A No, sir, she did not.

9 Q Did she tell you she did not?

10 A No, sir, she did not tell me she referenced 09:14AM
11 any documents.

12 Q Did you have more than one conversation with
13 her?

14 A No, sir.

15 Q How long has Miss Huertado been a breeder farm 09:14AM
16 manager?

17 A I do not know the exact date she was a farm
18 manager. It would have -- I believe mid to late
19 '90's.

20 Q Has she always been on Farm 6? 09:14AM

21 A No, sir.

22 Q Do you know what other farms she was manager
23 for?

24 A She has not -- she's only been the manager for
25 Farm 6. She was an hourly laborer before that. 09:14AM

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1 Q And she was an hourly laborer at facilities
2 other than Farm 6?

3 A Yes, sir.

4 Q Did she also perform hourly labor at Farm 6?

5 A I don't know that. She told me she had worked 09:15AM
6 at some of the other farms. I don't know if she was
7 an hourly laborer at 6 and then got promoted to a
8 farm manager or if she was an hourly laborer at one
9 of the other farms and got promoted to farm manager
10 at 6. 09:15AM

11 Q These farms are not adjacent to each other,
12 are they?

13 A You mean --

14 Q In location in geography?

15 MR. WALKER: Object to the form. 09:15AM

16 A No, sir.

17 Q How far apart are these farms physically?

18 A From the furthest to the furthest?

19 Q Sure.

20 A Six, seven, eight miles. 09:15AM

21 Q Okay. Now, what basis would she have -- let
22 me ask you this: You don't know that she worked at
23 every breeder farm, do you?

24 A She told me that she has worked at 1 and 2, 3
25 and 4. She has not worked at 5, and then she told 09:16AM

1 me she's at 6, I mean she's the farm manager at 6.

2 Q Did she tell you what time period she worked
3 at each of those facilities?

4 A No, sir.

5 Q What time period was she referring to when she 09:16AM
6 said that some of the waste from the breeder farms
7 was in fact applied on breeder farm facilities?

8 MR. WALKER: Object to the form.

9 A She said -- she started in the late '80's,
10 '88, '89, and that was when she started from 09:16AM
11 recollecting.

12 Q So are you telling me as Cargill's designee
13 today then waste has been applied from the breeder
14 farms onto the breeder farm facilities since the
15 late '80's? 09:17AM

16 MR. WALKER: Object to the form.

17 A Yes.

18 Q And to what time period did that end, if it
19 did?

20 A Well, it went to when Ag Forte took over the 09:17AM
21 breeder farm operations, and then for the year that
22 it came back from Ag Forte and went to CTP, LLC.

23 Q So that I understand what you are trying to
24 tell me, from the late '80's until to current,
25 except for that period of Ag Forte? 09:17AM

1 MR. WALKER: Object, contrary to his
2 testimony.

3 A Well, I'm -- it's my understanding I'm
4 representing Cargill and not Ag Forte, but when
5 Cargill owned -- had the company farms, during that 09:18AM
6 time frame that practice was in -- it is happening.

7 MR. WALKER: I just want to be sure we're
8 clear. We're talking about Cargill, Inc.?

9 MR. GARREN: No. I need to go back and --
10 that's why I'm trying to get, the time frame. I'm 09:18AM
11 just trying to nail the time frame.

12 MR. WALKER: I want the witness focused on
13 the right issue.

14 MR. GARREN: Right.

15 Q And you're here as a designee on that subject 09:18AM
16 for both Cargill, Inc., and Cargill Turkey, LLC;
17 correct?

18 A Yes, sir.

19 Q All right. So the application of poultry
20 waste from the breeder farms onto breeder farm 09:18AM
21 facilities began somewhere in the late '80's
22 according to the recollection of Miss Huertado;
23 correct?

24 A For 1 and 2 and 3 and 4, that is correct.

25 Q Okay. Did it not commence with regard to No. 09:19AM

1 5 at the same time frame?

2 A 5 -- 1 and 2 were built '87'ish. 3 and 4 were
3 built about a year, year and a half later. Farm 5
4 was built around 1990, and Farm 6 was not built
5 until I think a couple of years later, around 1992.

09:19AM

6 Q All right. So that's the reason why the first
7 1, 2, 3 and 4 started somewhere in the late '80's is
8 because they were the only four farms in existence
9 at that time; correct?

10 A Yes, sir.

09:20AM

11 Q She did not work at Farm 5. How does she have
12 knowledge that in fact waste from that facility was
13 applied on Cargill-owned land or facilities?

14 MR. WALKER: Object to the form.

15 A That was the one farm that she was not sure
16 about.

09:20AM

17 Q Okay. Now, back to where we were before, up
18 until June of 2004 was the application of poultry
19 waste from Breeder Farms 1, 2, 3 and 4 continuously
20 applied on Cargill properties?

09:20AM

21 MR. WALKER: Object to the form.

22 Q Let me start over. With regard to the waste
23 from the facilities 1, 2, 3 and 4, were they
24 continuously applied from the late '80's up until
25 Cargill Turkey, LLC, was formed?

09:21AM

1 MR. WALKER: Object to the form, misstates
2 his testimony.

3 A Mr. -- or Miss Huertado said the practice of
4 cleaning out and what she told me started and then
5 went up through June of '04. 09:21AM

6 Q Now, from June of '04 tell the court and jury,
7 please, what -- how it continued or how it changed
8 with regard to land application of poultry waste
9 from those breeder facilities.

10 MR. WALKER: Object to the form. 09:21AM

11 A And this is for CTP, LLC?

12 Q Yes. You went up to June '04. So now I'm
13 asking you since June '04, tell us how it continued
14 or changed.

15 A In '04 it continued the same. '05 is when we 09:21AM
16 started exporting all of the litter out of the
17 watershed.

18 Q And that's with the exception of that which
19 you learned Mr. Delap was continuing to spread on
20 the facilities; correct? 09:22AM

21 A If you're talking about the sweepings, yes.

22 Q All right, and that's your term, sweepings?

23 A Uh-huh.

24 Q There was some waste left in the barns that
25 was in fact gathered up and continued to be land 09:22AM

1 applied until the spring of '08; is that correct?

2 MR. WALKER: Object to the form.

3 A Sir, when they swept the house, there was
4 bedding material and litter and some dirt and
5 feathers and whatever that was left that was land
6 applied. 09:22AM

7 Q Are you saying there was litter left in the
8 barn that was swept up from these facilities and
9 then land applied?

10 A Yes, sir. 09:22AM

11 Q All right, and that continued until the spring
12 of '08; correct?

13 A No. They were not sweeping in '05 or '06. I
14 think that practice started late '06 to early '07 is
15 when that -- is when the sweeping practice started. 09:23AM

16 Q And that sweeping practice was instituted by
17 whom and for what reason?

18 A Dr. Woo-ming.

19 Q And for what reason?

20 A Additional sanitation. 09:23AM

21 Q Now, so we're clear about what we tried to
22 talk about yesterday also, I'm going to go through a
23 couple other scenarios with regard to this. Has any
24 third party applied poultry waste from a breeder
25 farm onto land owned by Cargill or its subsidiaries, 09:24AM

1 except what you've told me this morning?

2 MR. WALKER: Object to the form.

3 A Third party --

4 Q Let me back up and maybe we can clarify this.

5 When this poultry waste was removed from the breeder 09:24AM

6 facilities and land applied on Cargill-owned land or

7 farms, was the clean-out done by a third party?

8 A A contractor came and -- yes, yes.

9 Q All right. Somebody that didn't work directly
10 for Cargill but it was contracted to do the 09:24AM

11 clean-out, actually did the clean-out, took some of
12 the waste away and land applied some of the waste;
13 is that a correct statement?

14 A Yes, sir.

15 Q All right, I think you told me yesterday 09:24AM
16 nobody from Cargill, meaning an employee, cleaned
17 out the barns themselves, but it was always this
18 third-party contractor that did that work?

19 MR. WALKER: Object to the form.

20 A We're talking pre-2004? 09:24AM

21 Q Yes, sir.

22 A Yes, sir.

23 Q Now, since 2004 has Cargill, LLC, continued to
24 use a third-party contractor for the times when it
25 was removed and spread? 09:25AM

09:26AM

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1 farms?

2 MR. WALKER: Object to the form.

3 A From -- you're talking about from another
4 poultry farm?

5 Q Yes, sir. 09:26AM

6 A No litter from another poultry farm has not
7 been applied to the lands.

8 Q Okay. So I'm correct in understanding from
9 what you've told me, the only poultry litter that
10 was applied on the breeder facility farms would have 09:26AM
11 been that which was generated within the barns on
12 those properties?

13 A Yes, sir.

14 Q All right, good. Presently in the year 2008
15 who is Cargill using to haul poultry waste out of 09:27AM
16 the breeder facilities?

17 A BMPs, Inc., is exporting litter from the
18 breeder farms.

19 Q Am I correct in understanding that there was a
20 time period that Mitch Moore did it solely and then 09:27AM
21 BMP then commenced doing it solely?

22 A Yes, sir.

23 Q All right. So BMP is the most recent one to
24 be doing it. When did BMP commence their work in
25 removing the waste and exporting it? 09:28AM

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1 **A** Late spring, early summer of '07.

2 **Q** Okay. In late spring of '06 or I guess late

3 '06, maybe early '07 when Dr. Woo-ming requested

4 this sweeping to occur that had not been a part of

5 the process before -- let me ask this way: Was that

09:29AM

6 the first time that sweepings, as you referred to

7 it, began to be used as a process on the breeder

8 farms at late '06, early '07 as a result of Dr.

9 Woo-ming's suggestions?

10 **A** Before Dr. Woo-ming had it, no, sir, I do not

09:29AM

11 believe they were sweeping the houses.

12 **Q** Before he had it done or requested it be done?

13 **A** Yes. It was my understanding that before he

14 requested that, it was not being done.

15 **Q** Okay, and what was the reason, and you've

09:30AM

16 already told me slightly that there was some health

17 issue or something; I don't remember what you told

18 me. What are the specific reasons that he requested

19 this be done?

20 **A** He wanted increased sanitation procedure. I

09:30AM

21 believe it was for -- because they were having some

22 cellulitis problems, which is a disease that or a

23 condition that they have, and he was wanting a

24 heightened sense of clean-out and biosecurity, I

25 mean as much as we could physically -- as physically

09:31AM

1 as you could get.

2 Q Does the -- the cellulitis issue, did it show
3 up in any grow-out barns or any other facilities
4 besides the breeder farms that Cargill operated?

5 MR. WALKER: Object to the form. 09:31AM

6 A You mean in the preproduction?

7 Q At any facility that's a contracted facility,
8 was the same issue that Dr. Woo-ming addressed with
9 having further sanitation applied to the barns at
10 clean-out, did it occur anywhere else? 09:31AM

11 A I believe there have been other contract farms
12 that have had some cellulitis issues. I do not know
13 if the -- the severities between the two. I don't
14 know if it was as severe on the contract farms as
15 what it was on the breeder farms. 09:32AM

16 Q But it happened; correct?

17 A I believe there has been some, yes.

18 Q And were those contract growers required to do
19 the same type of additional sanitation procedures
20 that were being conducted at the breeder farm 09:32AM
21 facilities?

22 MR. WALKER: Object to the form.

23 A No, sir.

24 Q Does Cargill, LLC, have the records of the
25 waste clean-out and hauling that -- since BMP took 09:32AM

1 over the program?

2 **A** I have -- BMP has given me through an E-mail,
3 I don't think they've done it recently, the amounts
4 that they have been hauling.

5 **Q** When that hauling occurs, does a record -- is 09:33AM
6 a record made fairly contemporaneously with what is
7 hauled out of each facility?

8 **A** BMPs has those records, yes.

9 **Q** Is a record provided to Cargill, LLC, that
10 would evidence what's being hauled out? 09:33AM

11 **A** No. I do not have those records.

12 **Q** Does BMPs send an invoice or statement for
13 services to Cargill, LLC, for clean-out and hauling
14 of waste away?

15 **A** We do not pay BMPs, Inc., for anything. 09:33AM

16 **Q** Okay. My question was, does BMPs, Inc. --
17 okay. Does BMPs, Inc., then pay Cargill any funds
18 related to the clean-out and hauling away of poultry
19 waste from the breeder facilities?

20 **A** No, sir. The poultry litter -- BMPs does not 09:33AM
21 pay Cargill for the poultry litter.

22 **Q** All right. Let me hand you Exhibit 56, sir.
23 Can you identify that best management practices
24 handbook with Steve Willardsen's name on it?

25 **MR. GARREN:** Why don't we do this. Let's 09:35AM

1 go off the Record for a second. I'll give him
2 another one and then he can look at both of those
3 off the Record while we get things organized to
4 start here.

5 VIDEOGRAPHER: We're now off the Record. 09:35AM

6 The time is 9:35 p.m.

7 (Following a short recess at 9:35 a.m.,
8 proceedings continued on the Record at 9:37 a.m.)

9 VIDEOGRAPHER: We are back on the Record.

10 The time is 9:36 a.m. 09:37AM

11 Q While we've been off the Record, you've been
12 able to review both Exhibit 56 and 57, have you not?

13 A Yes, sir.

14 Q Let's talk about Exhibit 56, if you would,
15 first. Can you tell the court what this best 09:37AM
16 management practices book is that we're looking at?

17 A Well, the first part of it looks like it is a
18 regular production BMP guide and then the --

19 Q Let's talk about the page numbers because
20 there's -- so starting at Page 38 of the Bates 09:37AM
21 numbers --

22 A Starting at Page 38.

23 Q -- to Page 99. Should be a color page in
24 there.

25 A There it is. 09:38AM

1 Q Is Page 99 the last page you have in yours,
2 too?

3 A No. Mine says 117.

4 Q I'm not disputing it. I'm just trying to make
5 sure why I confused myself in here. 09:38AM

6 MR. WALKER: Mine goes to 117 also.

7 MR. GARREN: Well, mine stopped at 99, but
8 we'll rely on the original then.

9 Q Does that appear to be what is a best
10 management practices handbook that's used by 09:38AM
11 Cargill, Inc.? I say that because have you looked
12 at -- I have 101. I see a revision date of 3-02.

13 A I'm sorry, what page?

14 Q 101.

15 A 101? This is the number you're going off of? 09:39AM
16 Yes, there is 101. It says revision 3-02. Yes,
17 this appears to be a best management practice guide
18 that would have been used for Cargill, Inc.

19 Q Is this guide still in effect or is it
20 replaced by another revision, if you know? 09:39AM

21 A I don't know if it's been replaced by another
22 revision.

23 Q What's the next document in your stack there
24 after this first set?

25 A 229590. 09:39AM

1 Q All right, and that is -- appears to be the
2 same kind of manual with Jim Ward's name on it;
3 correct?

4 A Yes, sir, and it goes back to 229667.

5 Q All right. 09:40AM

6 A It's the next part of this.

7 Q And I'm going to apologize again, but I think
8 we have some additional numbers out of place. 669
9 and 668 actually are in front of 667, but this also
10 shows a revision date of 3-02, and part of it -- is 09:40AM
11 there another document in your set of exhibits for
12 56?

13 A Yes, sir.

14 Q That's the one that starts with 374?

15 A Yes, sir. 09:40AM

16 Q And it goes to 447?

17 A Yes, sir.

18 Q And I'll represent to you obviously not all
19 the pages are there. I'm trying to just identify,
20 is there a contract grower best management practices 09:41AM
21 guide in effect today that the growers have?

22 A Yes, sir.

23 Q Do you know what revision date is on that
24 document or who prepared it?

25 A You're talking for -- we're talking LLC now? 09:41AM

1 Q Currently LLC and I'm going to go backward.

2 A No, sir, I do not know the exact date that it
3 has been revised, but they do have a BMP guide.

4 Q I think we talked yesterday, but that guide is
5 given to every new grower when they start work and 09:41AM
6 when revisions are made, those revisions are
7 provided to all the growers at the same time; is
8 that a fair statement?

9 A I know -- I definitely know about the new
10 growers. I do not know about the revisions. 09:41AM

11 Q So what's the purpose of making a revision if
12 it's not given to the growers that are then growing?

13 A A lot of the revisions I believe have come
14 about because of new equipment, new controls, new --
15 something that the older -- 09:42AM

16 Q Older facilities may not have them?

17 A Yes, yes.

18 Q So is it possible also that revisions, when
19 made, if applicable, the revision itself is given to
20 the grower to add to the existing manual he may 09:42AM
21 have?

22 A Yes, sir, that is possible.

23 Q All right, but the point is, you're trying to
24 keep your growers up to date with what you consider
25 to be the best management practices at all times; 09:42AM

1 true?

2 A Yes, sir.

3 Q Okay. Let's look at 57 and see if we got

4 matching documents. Mine is a turkey breeder best

5 management practice guide on the first page. It 09:42AM

6 shows it was created in 1999. Is that what you have

7 there?

8 A Yes, sir.

9 Q Okay. Does your exhibit go all the way to

10 Page 313? 09:43AM

11 A No, sir. Mine goes to 341. You mean the last

12 page?

13 Q Yes, sir.

14 A It goes to 341.

15 Q Okay. Mine may just not be complete. We'll 09:43AM

16 work through yours then. Can you identify this

17 document for us and -- well, do that first and see

18 if you know what that is.

19 A It looks like a BMP guide for the breeder

20 department. 09:43AM

21 Q All right, and is the breeder department

22 then -- is this manual directed at those operating

23 the breeder facilities?

24 A Yes, yes.

25 Q Okay. Is this manual in any way directed at 09:43AM

1 the contract growers for Cargill or Cargill, LLC?

2 A The commercial contract growers, no, sir,
3 would not have this.

4 Q What do you mean by commercial contract
5 growers? 09:44AM

6 A The ones that raise the commercial contract
7 growers would be getting this one.

8 Q Exhibit 56?

9 A Yes, sir. The breeder department wouldn't be
10 using this. 09:44AM

11 Q Wouldn't be using 56, the exhibit?

12 A Wouldn't be using 56.

13 Q All right, but the breeder department is using
14 Exhibit 57; correct?

15 A Yes, sir. This came from the breeder
16 department. 09:44AM

17 Q But my question is, none of the contract
18 growers would be using Exhibit 57 in their grow-out
19 operations; correct?

20 A No, sir. They would be using 56. 09:44AM

21 Q All right. So my statement is correct, they
22 wouldn't be using 57?

23 A Yes, sir.

24 Q Only 56?

25 A Yes, sir. 09:44AM

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1 Q And so those using the breeder best management
2 practices guide that we see here are employees of
3 Cargill or Cargill, LLC; correct?

4 A There's a lot of it -- I mean I haven't looked
5 through every page, but a lot of it is for the 09:44AM
6 Cargill-owned, the layer facilities, there they're
7 actually producing the eggs.

8 Q Okay, and those would be operated by contract
9 growers or for employees or by employees of Cargill
10 or LLC? 09:45AM

11 A In the IRW, it is for the Cargill employees.

12 Q Okay, and that's what I'm trying to establish.
13 Is there any reason why a contract grower would have
14 to rely on or be expected to use Exhibit 57 in their
15 work? 09:45AM

16 A Going through the pages -- there's a lot of
17 it, no, but on Page 188, it has a breeder growing
18 farm biosecurity procedure, which that breeder
19 growing is what I would call a dark-out or
20 preproduction, so -- 09:46AM

21 Q Which could be a contract grower?

22 A That could be a contract breeder, yes, sir.

23 Q Let me ask it this way then: There's no
24 reason to give that particular contract grower this
25 entire manual when they could simply receive the 09:46AM

1 single page; correct?

2 MR. WALKER: Object to the form.

3 A I do not believe a dark-out farm would have
4 received this entire manual.

5 Q All right, sir. Does a dark-out farm receive 09:46AM
6 its own manual just as we've seen two different
7 manuals here in Exhibits 56 and 57?

8 A I do not know.

9 Q Yesterday when we talked about a preproduction
10 facility, you used that term. Today you are using 09:46AM
11 a dark-out facility. Are they the same?

12 A Yes.

13 Q All right. So it's just a different name
14 today you are using from the one you used yesterday;
15 correct? 09:47AM

16 A Yes, sir.

17 Q All right. Let me hand you Exhibit 34,
18 please. Are you familiar with this Exhibit No. 34,
19 sir?

20 A No, sir, I cannot say I've seen this in this 09:48AM
21 form.

22 Q Have you seen these growers in a different
23 form?

24 A This looks like this is Illinois -- IRW
25 watershed or IRW contract grower or farms in the 09:49AM

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1 IRW. I have seen the names of the farm, but I don't
2 ever remember seeing the rest of this, the address
3 and city, state, dates, all that.

4 Q Okay. How does Cargill, Inc., keep track of
5 its growers; do they do it by name, by location, by 09:50AM
6 number; how does that occur?

7 MR. WALKER: Object to the form.

8 A I believe in our -- Cargill, Inc., I believe
9 in our production system, they have a number.

10 Q Is that a number that's in a computer base, 09:50AM
11 database that's assigned to an individual grower?

12 A I believe so, yes.

13 Q Is that a number then that can be referenced
14 if you are looking for records relative to that
15 grower's production? 09:50AM

16 A I believe so, yes, sir.

17 Q Let me ask you to look at Exhibit 55. Does
18 that start at Page 230044?

19 A No. It starts at 254684.

20 MR. WALKER: I think you need a new copy 09:51AM
21 company.

22 MR. GARREN: I'm trying to figure out what
23 side of the bed I got out of.

24 Q 25 what?

25 A 254684. 09:51AM

1 Q What is the ending page on that document?

2 A 230043.

3 Q Okay.

4 MR. WALKER: My exhibit is not --

5 MR. GARREN: Well, there are two different 09:52AM

6 forms here so your numbers are not going to be the
7 same. You have a grower contract form and you got a
8 computer form. They're put together.

9 MR. WALKER: The numbers are not
10 consecutive, and my last page is 230053. 09:52AM

11 A Sir, sir --

12 MR. GARREN: Which is what his is supposed
13 to be because the staples came out, which is why we
14 have extra pages.

15 A Okay. This is stapled. Is this 55 what is 09:52AM
16 stapled and these came with it?

17 Q No.

18 MR. GARREN: We need a binder clip, if we
19 could, to put it back together. The staple came
20 out. 09:52AM

21 MR. WALKER: Before you put that on --

22 MR. BULLOCK: Let's take a moment and
23 organize that.

24 MR. GARREN: We'll go off the Record.

25 VIDEOGRAPHER: We're now off the Record. 09:53AM

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1 The time is 9:52 a.m.

2 (Following a short recess at 9:53 a.m.,
3 proceedings continued on the Record at 9:55 a.m.)

4 VIDEOGRAPHER: We are back on the Record.

5 The time is 9:55 a.m. 09:55AM

6 Q Mr. Alsup, while we were off the Record, we
7 reorganized this exhibit a little bit to make sure
8 we had the same thing. The first part of Exhibit 55
9 is what appears to be a computer printout. Are you
10 familiar with this kind of form that is used by 09:55AM
11 Cargill?

12 A I have seen this form before, yes, sir.

13 Q Tell us how this form is created. How is it
14 kept; how do you get it out of the computer?

15 A I don't know how to get it out of the 09:56AM
16 computer. Our accountants would know, but it's --

17 Q Let me ask you this then: Is this a computer
18 program from which someone other than accounting
19 would have access to, such as somebody in the live
20 production area? 09:56AM

21 A No, sir.

22 Q All right. Do people in live production keep
23 track of what is produced?

24 MR. WALKER: Object to the form.

25 A What -- 09:56AM

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1 Q Let me ask it this way then: How are the
2 records created that shows the total number of birds
3 that are in fact produced by Cargill; how does that
4 start to get into the computer?

5 MR. WALKER: Object to the form. 09:57AM

6 A When a flock is placed, I believe the flock is
7 given a number, and when given a number, for lack of
8 a better -- I'm not an accountant -- an account is
9 set up, and as that flock is grown, as it receives
10 feed or whatever that flock receives, it goes into 09:57AM
11 that account. Is that what you're talking about?

12 Q Now, who determines how many -- who counts the
13 birds that are placed?

14 A Who counts them?

15 Q How does the computer know the number of birds 09:57AM
16 placed without somebody putting it in there?

17 A It's entered.

18 Q And that's my question. Who determines the
19 amount of birds?

20 A The -- well, every flock -- every contractor 09:57AM
21 has a contract that states the amount of birds that
22 we're going to place, and then as they come up for
23 placement and it's their turn, they get put on a
24 placement schedule.

25 Q Let me ask my question again. How do you know 09:58AM

1 how many birds are put on a farm?

2 A The -- after the hatchery -- after the birds
3 are placed, there's a ticket, a delivery ticket.

4 Q Who counts the birds that puts that number on
5 a delivery ticket?

09:58AM

6 A The birds that are actually counted in each of
7 the boxes are the hourly labor at the hatchery that
8 does the services.

9 Q All right, and so nobody at the farm counts
10 the birds when they're placed; is that correct?

09:59AM

11 A Not routinely. We have had contract producers
12 that have wanted to count them.

13 Q When a truck is loaded up for placement of
14 birds, is a truck designed to go only to one farm at
15 a time; in other words, it would take its load,
16 empty the entire load before it would deliver birds
17 elsewhere?

09:59AM

18 A It has done that, and if there is two smaller
19 farms with lower -- with not -- then they could go
20 to one and then the other.

09:59AM

21 Q So they may actually do a split load where
22 they deliver part of the load to one farm, go to the
23 next farm and unload the balance of that load at
24 another farm?

25 A Yes, sir.

09:59AM

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1 Q All right, but in each instance, the hatchery
2 determines the number of boxes of turkeys that go on
3 to the truck?

4 A Each poult box has 100 poults in it.

5 Q Okay, and so my point then is, the number that 10:00AM
6 is then entered into the computer for what is placed
7 generated out of the hatchery?

8 A Yes. What's loaded onto the poult trucks, the
9 delivery trucks, would be generated out of the
10 hatchery.

11 Q All right. Now, during the process that these
12 birds are being grown, mortality exists; in other
13 words, birds die for whatever reason during the time
14 of the flock between its placement and its pickup;
15 correct? 10:00AM

16 A Yes, sir.

17 Q And who is responsible for counting mortality?

18 A The grower actually counts the mortality and
19 records it on a card.

20 Q And then that card is later -- the numbers 10:00AM
21 from that card are later entered into the computer
22 to show that mortality for that flock; correct?

23 A Yes, sir.

24 Q All right, and then who counts the birds that
25 are then picked up from the farm? 10:01AM

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1 **A** The live haul crew, as they load them, count
2 them.

3 **Q** All right. Does the contract grower verify
4 that number?

5 **A** There are times that the contract grower does 10:01AM
6 sit there and watch the birds being loaded.

7 **Q** Now, those live haul personnel that capture
8 the number that are then taken away from the farm,
9 are they responsible for getting that information to
10 somebody to input in the computer or does it go 10:01AM
11 somewhere else first?

12 **A** The ticket -- when they do a -- when they load
13 a truck, there's a load-out ticket done for each
14 truck, and I think it has some basic information,
15 head count on it, the grower and maybe a time, and 10:01AM
16 that's given to the driver, the truck driver.

17 **Q** Does it have the flock number on it?

18 **A** No, sir, I don't think they know that, and
19 then the driver brings it into the plant, the
20 processing plant. 10:02AM

21 **Q** Okay. How does that number then get entered
22 into the computer; who takes it from there?

23 **A** It goes to the guard shack and the birds are
24 processed. I believe there's another counter in the
25 plant and we use the -- if there's a difference in 10:02AM

1 those two counts, we use the higher number and
2 that's what gets entered as what was produced --
3 that was what was loaded from the farm.

4 Q Okay. There's another condemn that occurs in
5 the plant that has nothing to do with the contract 10:02AM
6 grower; is that a correct statement?

7 A There --

8 Q That's not a good statement because nobody
9 knows what that means. Does Cargill in its
10 processing plant condemn birds that don't go to 10:03AM
11 final processing?

12 A There is a term called whole bird condemn,
13 yes, sir, and Cargill doesn't condemn them. The
14 inspectors from the government do that.

15 Q All right, and they are there all the time 10:03AM
16 watching the birds come in, making a determination
17 whether it should or should not be condemned. That
18 condemned number, does it go into the computer also
19 for keeping track of records in Cargill?

20 A Yes. There is -- there is a report that shows 10:03AM
21 whole bird condemn.

22 Q Okay, but for purposes of the grower, that has
23 no impact on him once the bird has been counted as
24 delivered to the processing plant; correct?

25 A I believe that is correct, and the parts 10:04AM

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1 condemn don't -- it affects -- okay. Ask the
2 question one more time.

3 Q The contract grower is paid for the birds
4 processed or loaded from the farm and taken to the
5 process plant; correct? 10:04AM

6 A The contractor is paid on a per head basis,
7 yes, sir.

8 Q That's not my question. He's paid for those
9 birds that leave his farm when they leave the farm;
10 correct? 10:04AM

11 MR. WALKER: Object to the form.

12 Q He's paid for the number of birds that have
13 been loaded at his farm and trucked to the
14 processing plant; correct?

15 A I believe that is true, yes, sir. 10:04AM

16 Q Now, looking at Exhibit No. 55, can you tell
17 me what this document is in March of 2002 what is
18 called a grower name and address listing?

19 A This document looks like it's got the name of
20 the grower, the address. It's got what I believe is 10:05AM
21 their Social Security numbers, crop year, and I
22 don't understand what flock sequence means but --
23 and then it's got a number assigned to it.

24 Q So the crop year would be the year in which
25 the birds are placed or processed? 10:05AM

1 **A** It -- well, I think this is -- this may be --
2 I don't know. I don't know what the crop year -- I
3 don't know if this was -- this was a report that was
4 done in '01-'02. I'm assuming that's what this is.

5 **Q** What does contract number refer to on this 10:06AM
6 report?

7 **A** I don't know.

8 **Q** Do the growers have a contract number that's
9 assigned to them?

10 MR. WALKER: I object to the form. Another 10:06AM
11 witness is designated for grower contracts. Answer,
12 if you know.

13 **A** I don't know of a number that's on a contract.

14 **Q** You mentioned earlier about a flock number
15 that's assigned; correct? 10:06AM

16 **A** Yes, sir.

17 **Q** Is the flock number assigned for a single
18 house or is it for a single farm when it's assigned?

19 **A** No, sir. A flock number is for a placement.

20 **Q** What does that mean, placement to a barn or 10:07AM
21 placement to a farm?

22 **A** Placement to a farm.

23 **Q** So it could be several houses that would get a
24 flock sequence number that's the same for all houses
25 on that farm location; correct? 10:07AM

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1 MR. WALKER: Object to the form.

2 A No, sir. A farm has a brooder house and
3 grow-out houses, and when a flock is placed on a
4 farm into the brooder house, it's assigned a one
5 let's say.

10:07AM

6 Q All right.

7 A And at five or six weeks, whenever they move
8 the birds out of the brooder house into the grow-out
9 house, all of the birds in the grow-out houses still
10 have the flock number one, and then while they're
11 still on the farm, another flock is placed, for this
12 example, it would be number two, and then that
13 number two would stay with that flock as it was
14 raised.

10:07AM

15 Q And am I correct that every flock, as you
16 described a flock, has a unique number assigned to
17 it?

10:08AM

18 A I believe so, yes, sir.

19 Q Look midway through this document, Page 23002
20 where it starts the forms Cargill contract grower.
21 Yes, sir, and on that form, can you tell me how long
22 that form has been in use by Cargill or the LLC?

10:08AM

23 A This is a direction book. As far as I can
24 remember, Cargill, Inc., has had a direction book.

25 This is the document that -- or this is used if we

10:09AM

1 have new feed truck drivers.

2 Q Would you agree with me, from this form, you
3 can locate a farm?

4 A Yes, sir. It's the driving directions to the
5 farm. 10:09AM

6 Q In addition to that, it tells the specifics
7 with regard to that farm. We have a dark-out house,
8 an intermediate and grow-out; correct?

9 A Yes.

10 Q All right. The dark-out is a preproduction, 10:09AM
11 which is the same term you used yesterday; correct?

12 A This particular one would be a breeder --

13 Q Just the form --

14 MR. WALKER: Let him finish his answer.

15 Q The dark-out house, that's referring to a 10:09AM
16 preproduction facility; correct?

17 A Yes, sir.

18 Q And an intermediate, that's a house that is
19 after the brood house, or is it the brood house, or
20 is it different? 10:09AM

21 A An intermediate house would be a house --
22 would be on a farm that's a three-stage farm, and it
23 would be a commercial contract farm where they have
24 a brooder house; they have one brooder house and
25 then an intermediate house and then they have a 10:10AM

1 grow-out house. So instead of a flock coming from a
2 brooder house to two or three grow-out houses, it
3 would go from the brooder house. They would move at
4 about six weeks. They would move the entire brooder
5 house to the intermediate house. They would stay 10:10AM
6 there for about six weeks, seven weeks, and then
7 they would move them to the -- what we would call a
8 grow-out house and finish them out, and they would
9 leave the farm from the grow-out house.

10 Q So in that process, after one flock has been 10:10AM
11 moved from the brooder house to an intermediate on a
12 three-stage farm, the brooder house is refilled with
13 another flock, or is it refilled after the
14 intermediate house is moved to the grow-out house?

15 A No. They would -- about two or three weeks 10:11AM
16 later after the flock is moved to the intermediate
17 house and the brooder house is prepped, they would
18 get another flock.

19 Q All right. So that just continues then in
20 that process until some time when somebody decides 10:11AM
21 to take a vacation and you might shut the farm down
22 for a couple of weeks; is that a fair statement?

23 A Yes, sir.

24 Q Okay. So not all farms, though, have three
25 houses, that is, the dark-out, the immediate and the 10:11AM

1 grow-out; correct?

2 A Well, the dark-out would be preproduction.

3 It's a standalone deal. The commercial contractors,

4 some of them are two stage, which means they have a

5 brooder house and grow-out houses. I don't know if 10:11AM

6 we have any three stages in the IRW but --

7 Q Let's start there. Are there any three-stage

8 houses in the IRW?

9 A Yes, sir, I know of one.

10 Q Okay, and so you've described how that works? 10:12AM

11 A Yeah.

12 Q My question to you was, though, if you don't

13 have an intermediate house, it goes from a dark-out

14 to the grow-out or preproduction to the grow-out at

15 a certain time, five or six weeks after being in the 10:12AM

16 brood house; correct?

17 A If you're not a three stage or a two stage and

18 you would have a brooder house and a grow-out house.

19 The dark-out house, they're all-in, all-out. The

20 flock comes and then the flock leaves. 10:12AM

21 Q All right. Let's go back. When does -- so

22 we're clear, a dark-out house is same as

23 preproduction in your terms; correct?

24 A Uh-huh.

25 Q Are you talking about all-in, all-out as a 10:12AM

1 separate scheme from the two stage, three stage, or
2 is it part of either one of those?

3 A No. It's a different production schedule.

4 Q All right. Let's stay on board here. We
5 have -- we talked about the three stage? 10:13AM

6 A Yes, sir.

7 Q And that's kind of right in line with this
8 form that we're looking at for all three houses;
9 correct?

10 A Yes, sir. 10:13AM

11 Q You have a two stage. That two stage
12 eliminates the intermediate house; correct?

13 A Yes, sir.

14 Q Is the grow-out house configured differently
15 in order to make up that intermediate stage? 10:13AM

16 A No. A grow-out house -- the only thing a
17 grow-out house differs from an intermediate is it's
18 bigger, the house is bigger.

19 Q Is the grow-out house reduced in size when the
20 brood is moved from the brood house into the 10:13AM
21 grow-out house until they get larger and then that
22 house is -- maybe partitions are removed in order to
23 give the full access to the house?

24 A We do have some growers in the winter when
25 it's cold, they'll move their flocks out of the 10:14AM

1 brooder house into the grow-out, and at two-thirds
2 down the house they may have a curtain that comes
3 down that the birds stay in two-thirds of the house
4 in all the grow-out houses for a couple of weeks,
5 and then the curtain comes up and the birds are
6 given the entire house. That would only happen in
7 the winter when it's cold. In the summer after they
8 move from the brooder house, the birds are given the
9 entire grow-out house.

10:14AM

10 Q Now, let's talk about an all-in, all-out.
11 Tell the court briefly what that means.

10:14AM

12 A A flock comes on a farm and another flock is
13 not placed until that flock leaves the farm.

14 Q And on that particular farm, is it because
15 they have a single house or is it some other reason?

10:15AM

16 A It's usually because the growers wanted to
17 slow down and they don't want a lot of flocks. They
18 still want to raise turkeys, but you could have any
19 number of houses and have that happen.

20 Q So if you're an all-in, all-out facility, you
21 could have a brooder house. You put them in the
22 brood house. You move them to a grow-out house, and
23 until that flock is removed, they don't get another
24 flock; is that what you're saying?

10:15AM

25 A Yes, sir.

10:15AM

1 Q All right.

2 MR. WALKER: Mr. Garren, we've been going
3 an hour or a little bit more. Whenever you're ready
4 for a break, I could use one. He changed tapes so
5 we can go for whenever you get to a convenient 10:15AM
6 point.

7 MR. GARREN: Well, you've already had an
8 early break. That's okay.

9 MR. WALKER: I didn't go to the restroom.

10 MR. GARREN: Go ahead. Let's take a break. 10:15AM
11 If you are wanting a break, let's take a break.

12 VIDEOGRAPHER: We're off the Record. It's
13 10:15 a.m.

14 (Following a short recess at 10:15
15 a.m., proceedings continued on the Record at 10:22
16 a.m.)

17 VIDEOGRAPHER: We are back on the Record.
18 The time is 10:21 a.m.

19 Q I need to back up a little bit, Mr. Alsup.
20 Let's talk about Roy Barnard. You said you also 10:22AM
21 talked to him about waste production and the
22 disposition of that waste from the breeder
23 facilities. Do you remember that?

24 A Yes, sir.

25 Q All right. What did you ask Mr. Barnard -- 10:22AM

1 let me start this way: He works in the California,
2 Missouri facility now; is that correct?

3 A Yes, sir.

4 Q Has he worked in the Illinois River complex,
5 Springdale? 10:22AM

6 A He's worked in the Springdale complex.

7 Q Okay. Why did you call Roy Barnard to get
8 information about the breeder farms waste
9 disposition?

10 A As a backup source to what Cecilia told me. 10:22AM

11 Q Why would you call him as a backup source is
12 my question?

13 A She didn't recollect the late '80's. She
14 thought she did but she wasn't sure, and for
15 certainty, I called Roy. 10:23AM

16 Q How long has Barnard been working with
17 Cargill?

18 A Mid '80's.

19 Q And tell me every place he's worked since the
20 mid '80's to current then. 10:23AM

21 A He -- Ozark, Springdale and California,
22 Missouri.

23 Q What did he do in Ozark, and when you are
24 saying Ozark, are you talking about the town or you
25 talking about the complex? 10:23AM

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1 **A** The complex.

2 **Q** All right, and what did he do at the Ozark
3 complex?

4 **A** I don't know everything he did. I know he was
5 working in breeders in Ozark. 10:23AM

6 **Q** Okay.

7 **A** In the breeder department.

8 **Q** And as he worked in that breeder department in
9 Ozark, did he have any need to have contact with the
10 six breeder farms in the Illinois River watershed? 10:24AM

11 **A** Not that I know of, no, sir.

12 **Q** All right, and what period of time was he at
13 Ozark roughly?

14 **A** From the -- I think it was from the time he
15 started with the company until about '88. 10:24AM

16 **Q** All right. Did he then go to Springdale after
17 that or did he go to California, Missouri?

18 **A** He went to Springdale.

19 **Q** Okay. What time period did he work at the
20 Springdale complex? 10:24AM

21 **A** Around '88 to '92.

22 **Q** And what was his responsibilities at the time
23 that he was working in the Springdale complex?

24 **A** He was the breeder manager.

25 **Q** The entire time? 10:24AM

1 **A** Yes, sir, I believe so.

2 **Q** And as a breeder manager, did he have control
3 or operational control over all of the six breeder
4 farms?

5 **A** Yes. 10:25AM

6 **Q** And sometime in '92 or thereabouts he went to
7 the California, Missouri complex; is that what I
8 gather from your testimony?

9 **A** Yes, sir.

10 **Q** And he's remained there since? 10:25AM

11 **A** Yes, sir.

12 **Q** When he's been at the California, Missouri
13 complex, would he have any needs or contact -- need
14 to contact or deal with the Springdale complex as it
15 pertains to the breeder farms? Let me reword that. 10:25AM
16 As working in the California, Missouri complex,
17 would he have any reason to have any direct dealings
18 with the breeder farm facilities at the Springdale
19 complex?

20 MR. WALKER: Object to the form. 10:25AM

21 **A** No, sir.

22 **Q** So in your calling him because Miss Huertado
23 wasn't sure about all of her recollections, you were
24 trying to get information from him for the period
25 that he was at Springdale, '88 to '92; correct? 10:26AM

1 **A** Yes, sir.

2 **Q** Let me hand you Exhibit No. 18. I'm going to
3 refer to this as a CTP exhibit. That means it's an
4 LLC exhibit. I believe these documents attempt to
5 reference information that is more associated with
6 the LLC than Cargill, Inc., as I see them. Do you
7 know what this ADEQ form is, sir?

10:26AM

8 **A** It looks like part of the farm registrations.

9 **Q** This is required now as a result of new
10 legislation in the state of Arkansas; is that
11 correct?

10:27AM

12 MR. WALKER: Object to the form.

13 **A** Yes, sir.

14 **Q** Does Cargill, LLC, retain copies of its
15 registration forms when it registers?

10:27AM

16 **A** No, sir.

17 **Q** And why not?

18 **A** It's not required, and they give us -- I think
19 they give us a receipt or certificate.

20 **Q** Look at Pages 145311 in this document, if you
21 would, please.

10:27AM

22 **A** 1453 what?

23 **Q** 11. This is dealing with the registration of
24 the Breeder Farm No. 1, and on that page, which is
25 the fifth page of the form, it says under Item 2,

10:27AM

1 estimate amount in tons of manure or litter

2 generated by the operation per year, and it's filled

3 up in to show 450; do you see that?

4 A Yes.

5 Q All right, and down in Item No. 5, it shows 10:28AM

6 that at 5A the tons that are land applied is 100; do

7 you see that?

8 A Yes, sir.

9 Q And then Item D says tons are sold or
10 transferred are 350; do you see that? 10:28AM

11 A Yes, sir.

12 Q All right. At that time frame this appears
13 then that which is being applied is about roughly 25
14 percent of the total that's generated?

15 A Yes, sir. 10:28AM

16 MR. WALKER: Mr. Garren, I just want to be
17 sure we're not confused. Did you say this is with
18 regard to Farm 2 or 1?

19 MR. GARREN: I said 1. Very first page is
20 Breeder Farm 1. 10:28AM

21 Q Can you tell me why these documents are in
22 Cargill's records if it doesn't keep copies of this
23 registration form?

24 A What records?

25 Q This Exhibit No. 18 that we're looking at. If 10:29AM

1 you said you don't keep them, why is this in the
2 records that have been produced to the State?

3 A Our legal counsel requested that we go get
4 copies of them.

5 Q So you went and got copies of them from where? 10:29AM

6 A From the NRCS office.

7 Q Okay, and is this a true and correct copy of
8 what is submitted to the NRCS office?

9 A Yes, sir.

10 Q I notice there's no signatures on these forms. 10:29AM
11 Is there a reason for that?

12 A There should be.

13 Q I notice some of these forms are not filled
14 out in total. Is there a reason for that?

15 MR. WALKER: Take your time to look through 10:29AM
16 the exhibit so you're sure you know what you're
17 looking at, Mr. Alsup.

18 A There was one year -- I know what it is.
19 There was one year that the NRCS -- they changed --
20 they sent me this form, this blank form on E-mail, 10:30AM
21 and I had a wild idea. Instead of filling them out
22 every year because the production doesn't change,
23 but I would just create it, and that way, every year
24 we could just update some of the dates and not have
25 to update the entire thing. So this was on my -- 10:30AM

1 this year was on my computer.

2 Q Where are the forms that you went to NRCS to
3 produce to the State? Did you gather those
4 yourself?

5 A No, sir, I did not. 10:30AM

6 Q Who gathered those?

7 A Candy Smith.

8 Q And do you know in fact that they were
9 produced to the State?

10 A I do not know. 10:31AM

11 MR. WALKER: I can represent to counsel
12 that they were produced to you in the last two or
13 three weeks.

14 Q Let me hand you what's been marked as Exhibit
15 No. 96. Have you seen this document before, sir? 10:31AM

16 A Yes, I have.

17 Q Did you have anything to do in the preparation
18 of this document?

19 A Yes, I did.

20 Q Tell me exactly what you did -- well, let me 10:32AM
21 ask you this: Did anybody help you produce this
22 document?

23 A Yes, sir, they did.

24 Q Who were the people that helped you?

25 A Nathan Mefford, Ron Yowell, Dale Young, Brian 10:32AM

1 Delosure.

2 Q Okay. Mr. Delosure works in what department
3 at this time? Let me back up. Did you prepare this
4 recently?

5 A Yes, sir. 10:32AM

6 Q Okay, and these people helped you recently in
7 preparing it; correct?

8 A Yes, sir.

9 Q All right, and in what department or location
10 does Mr. Delosure work; what's he do? 10:33AM

11 A He's a flock supervisor.

12 Q And are all four of these people you mentioned
13 at Springdale?

14 A The first three are retired.

15 Q Okay. What did you do with Mr. Delosure to 10:33AM
16 prepare this form or maybe how did he help you to
17 prepare this form?

18 A His memory, listing a bunch of -- have grower
19 names and he was -- I was asking questions about it.

20 Q Did you refer to any other documents or 10:33AM
21 records to assist in preparing this document?

22 A There was a contract file that I believe we
23 got the names off of or not a file, a contract list
24 maybe.

25 Q Is that contract list similar to Exhibit No. 10:34AM

1 55 that we've looked at? You may have it down here.

2 A No. The one I had was just a list of names.

3 Q Was it generated from a computer like this
4 appears to be?

5 A I believe -- no, it wasn't like this. It was 10:34AM
6 just a list of names.

7 Q Where did you get that list?

8 A Candy Smith.

9 Q And did she tell you how she got it or how it
10 was prepared? 10:35AM

11 A She got the names from either a contract list
12 or a contract file, the names.

13 Q What contract list would she go to?

14 A I don't know. There was -- I don't know if
15 there was a list of contractors or if we had some 10:35AM
16 contracts from some of these guys in the past that
17 she got the names off of.

18 Q Did you ask her?

19 A She said the contract files, the contract
20 list, so -- 10:35AM

21 Q How do you know that what she gave you was
22 complete and accurate?

23 A Because we looked through the files.

24 Q We being whom?

25 A Her and Can -- or Candy and myself. I looked 10:35AM

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1 through the files, and I don't know if there was any
2 other counsel that looked through the files.

3 Q Where were these files located?

4 A In Springdale.

5 Q Where in Springdale? 10:36AM

6 A At the feed mill.

7 Q Do you know whether or not those particular
8 files that you looked through have been produced to
9 the State of Oklahoma?

10 A I do not know. 10:36AM

11 Q Tell me what the file looked like that you
12 were looking through.

13 A It would just have a contract in it.

14 Q A contract with a grower?

15 A Uh-huh. 10:36AM

16 Q And that would be the only document in it is a
17 contract?

18 A Uh-huh.

19 Q That's a yes?

20 A Yes, sir. 10:36AM

21 Q Okay, and what period of time were the
22 contracts for that you looked at?

23 A I believe they were in the '90's. I believe
24 it was -- I don't ever remember looking at the
25 dates. I was more concerned with the names, but I 10:37AM

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1 believe they were in the '90's and early 2000's.

2 Q Okay. Did you look at any other files besides
3 these contract files for names of growers?

4 A For the turkey breeder and grow-out --

5 Q For all the Cargill growers, did you look at 10:37AM
6 any other files besides the contract files you just
7 described that are at the feed mill?

8 A For the broilers --

9 Q Now you are referring to chickens, not
10 turkeys? 10:37AM

11 A Yes, sir.

12 Q Okay.

13 A It was mainly contract files, but I believe
14 some -- we got some names from some production data.

15 Q Were the -- where were the broiler files 10:37AM
16 located that you looked through?

17 A In a storage building.

18 Q That storage building is located where?

19 A In Springdale.

20 Q Did anybody else look at it with you or did 10:38AM
21 you do it yourself?

22 A Yes. Candy Smith helped.

23 Q Okay, and does she work in Springdale?

24 A She came to Springdale and looked at the
25 files, yes. 10:38AM

1 Q Where does she work?

2 A She works at Rhodes.

3 Q She's a paralegal or attorney with Rhodes
4 Hieronymus; correct?

5 MR. WALKER: She's a paralegal, Mr. Garren. 10:38AM

6 MR. GARREN: Thank you.

7 Q Did anyone else at Cargill or LLC assist her
8 besides yourself?

9 A I do not know. Brenda Roe may have helped get
10 her some of these files, contracts. 10:38AM

11 Q Okay. Now, when you were looking at the
12 broiler information, what were the files that you
13 looked at?

14 A They were just a contract; it was just a
15 contract. 10:38AM

16 Q And what date range were those contracts for?

17 A Some growers just had one contract. Some --
18 there were more than one contract, but it was
19 basically from '78 to '83, '4, '5.

20 Q Did you look at anything besides contract
21 files for the broiler information? 10:39AM

22 A No other -- yeah. There was -- we got some
23 names from some limited production data that we
24 found.

25 Q What was the form of the production data that 10:39AM

1 you looked at; was it hard copy to begin with?

2 How's that?

3 A Hard copy meaning paper?

4 Q Paper, yes, sir.

5 A Yes. 10:39AM

6 Q All right. So you didn't look at any computer
7 data to get that production data you referred to?

8 A There was no computer data for the broilers,
9 no, sir.

10 Q Was the production data stored at the same 10:40AM
11 place that the contract files were stored?

12 A I believe so, yes, sir.

13 Q And did you look through those production data
14 files yourself?

15 A I did not look through every file. I have 10:40AM
16 seen some of them, yes, sir.

17 Q And the only other person that would have been
18 doing that would have been Candy Smith?

19 A That I'm aware of.

20 Q All right. What was the time period for 10:40AM
21 production data that you relied on or looked at for
22 preparing this grower list?

23 A I don't know. It would be during this time
24 frame. I don't remember looking at the dates that
25 started and stopped it, but the broilers were there 10:40AM

1 from roughly '78 to '83, '4, '5, somewhere around in
2 there.

3 Q Is it Cargill's position that the information
4 contained on Exhibit 96 is true, accurate and
5 complete with regard to any data it has access to? 10:41AM

6 A Yes, sir.

7 Q What was the date that Cargill first entered
8 the IRW to produce poultry of any type?

9 A '77, '78.

10 Q All right, and when that occurred, were 10:41AM
11 there -- was that through an acquisition so that
12 houses with growers in it already -- that's not
13 right. Poultry houses already existed that had
14 growers that could operate?

15 A Yes. Cargill acquired the company, yes. 10:41AM

16 Q Okay. So it didn't just start from scratch
17 and build a barn, build another barn, put a grower
18 at it, that sort of thing?

19 A I do not believe so, no, sir.

20 Q Okay. Looking at this Exhibit 96, at the very 10:42AM
21 front top line it talks about the Abbott Farms. It
22 says number of flocks per year, two to five. Can
23 you explain to me why there's such a wide variation
24 of flocks?

25 A We did not -- when we were looking at the 10:42AM

1 contract numbers, I believe this is because there
2 may be more than one contract, but some contracts
3 just had a two on it and some just had a five on it.
4 So these numbers would have come off of the
5 contract.

10:42AM

6 Q So are you telling me then that the contract
7 you looked at that had a two on it would have been a
8 contract for two flocks?

9 A Yes, sir.

10 Q And so a different contract, which would have
11 been for a different period, might have a five on it
12 representing that period would be for five flocks;
13 is that what I understand you to say?

10:43AM

14 A Yes, sir.

15 Q Okay. So I understand this form, the number
16 of flocks per year is the number two to five, and
17 that's an annual number, and you've described the
18 discrepancy in two to five, but the next one says
19 six. That would be that particular grower had six
20 flocks per year on average or is that -- how was
21 that calculated?

10:43AM

10:43AM

22 A Well, it means that they got six flocks.
23 Usually that was within a year, but that's usually
24 the year time frame, yes, sir.

25 Q But you have them down here from 1978 to 1999.

10:43AM

1 So on average they would have six flocks per year
2 during that entire period?

3 A No, sir. That's -- that wouldn't be correct.

4 Q I'm trying to understand what your form says.

5 You've got a time period. Number of flocks per year 10:44AM
6 seems pretty evident, but I'm trying to understand
7 whether that's a constant number, an average number,
8 median number?

9 A It was -- sir, it came off the -- we didn't
10 have contracts that went back to the '70's, and so 10:44AM
11 what we did have would be contracts that came from
12 the '90's. So if it was on the contract, we put it
13 down. I mean that's what the -- that's the number
14 of flocks we put.

15 Q Okay, but are you telling me you only had one 10:44AM
16 contract at eight farms?

17 A No, sir. We could have had just one contract.
18 We could have had two or three. I didn't count the
19 number of contracts. All we were trying to do was
20 do we have a contract, yes. What was the bird 10:45AM
21 number that was placed on it and what was the flock.

22 Q What was the criteria for you determining
23 which contract to use to write the flock number that
24 appears on this Exhibit 96?

25 A If we had more than one contract and it was 10:45AM

1 not the same as another one, that's where you get
2 the two to five.

3 Q All right. Is that the only source data that
4 you relied on to determine the number of flocks per
5 year for a grower? 10:45AM

6 A No, sir. I had to rely on the gentleman that
7 I talked to for the rough dates of when they
8 started.

9 Q That's not my question. For the number of
10 flocks per year. 10:46AM

11 A Oh.

12 Q Is the contract the only data you looked to to
13 enter that number on this form?

14 A No, sir.

15 Q What other source material did you refer to 10:46AM
16 that went into your decision to put how many number
17 of flocks per year entered on this document, Exhibit
18 96?

19 A If there was not a -- if we couldn't find a
20 number on a contract, that is where we used the 10:46AM
21 people that I talked to.

22 Q And you used them in what way?

23 A I asked them.

24 Q And they recalled from their experience with
25 that particular grower? 10:46AM

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1 **A** Yes, sir.

2 **Q** Did you feel at the time that was reliable?

3 **A** Yes, sir.

4 **Q** Okay, and did the person giving that
5 information feel comfortable about the number that 10:46AM
6 they were giving you?

7 **A** Yes, sir.

8 **Q** That's probably not a good question. Feeling
9 comfortable, it may have felt comfortable, but did
10 they believe that the number provided to you was an 10:47AM
11 accurate number?

12 MR. WALKER: Object to the form.

13 **A** Yes, sir.

14 **Q** Did they communicate to you that the number
15 provided was an accurate number? 10:47AM

16 **A** Yes, sir.

17 **Q** All right.

18 **A** To the best of their memory, yes, sir.

19 **Q** Who -- let's look at the broiler contracts
20 because I think I have some questions about it 10:48AM
21 starting at Page CAR 12. I've got to find another
22 document here. I'm sorry. Let me hand you what's
23 marked 97 and we'll look at 96 at the same time.

24 This is some documents that were provided by Cargill
25 in production in this case, and the name is Darrell 10:49AM

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1 Anderson and this is a contract in 1978. Shows a
2 broiler growing agreement. That would imply that
3 this is a chicken, not a turkey; correct?

4 A Yes, sir.

5 Q In looking at this particular document, 10:49AM
6 coincidentally I then went to your list for broiler
7 contracts. I don't find his name on that list in
8 Exhibit 96. Do you have an explanation why that
9 occurred?

10 A No, sir, I do not. 10:49AM

11 Q Likewise, if you go into Exhibit 97, there's
12 another document further back that is CARTP 274625.
13 Looks like this. It's got Shirley Jones' name on
14 it. Now, this is a pullet growing agreement. Is
15 that a turkey or a chicken? 10:50AM

16 A That would be a chicken.

17 Q All right. I don't find Shirley Jones' name
18 on your chicken list of broiler contracts. Is there
19 a reason for that, and what my question may be to
20 you -- 10:50AM

21 MR. WALKER: You asked him a question. I
22 think he's about to give you an answer.

23 A On CAR 000017 Shirley Jones.

24 Q Okay, preproduction. Can you show me where
25 Mr. Anderson appears in your broiler -- let me ask 10:50AM

1 you about that. This preproduction list at Cargill

2 -- CAR 17, is this turkeys or broilers?

3 A Broilers.

4 Q And what is the stage that is preproduction in

5 a broiler production that Cargill operated? 10:51AM

6 A Anything before -- they're not laying --

7 they're not producing eggs.

8 Q Same as a turkey then?

9 A Yes, sir.

10 Q Okay. Now, back to Mr. Anderson, can you 10:51AM

11 assist me in seeing whether or not Mr. Anderson is

12 listed on your broiler contracts for which we have a

13 document in Exhibit 97? I know sometimes these are

14 listed by farm names. That's why I'm asking you to

15 tell me if you recognize where it otherwise might 10:52AM

16 be, if you know.

17 A That could be a possibility. I'm looking for

18 the name, though. Sir, the only reason I can tell

19 or would think that Darrell Anderson you would not

20 find in this, would be he was determined not to be 10:53AM

21 in the IRW.

22 Q Who would have made that determination?

23 A I would have.

24 Q And from what source material would you have

25 looked at other than this contract to determine 10:53AM

1 that?

2 A We talked to or I talked to John Kaufeld.

3 Q And why would Mr. Kaufeld -- well, is he the
4 one that made the decision for you?

5 MR. WALKER: Object to the form. 10:54AM

6 A He is the one that roughly told me where the
7 farm was.

8 Q What's roughly mean?

9 A Well, I had a map and I said, tell me where
10 this farm was on this map. 10:54AM

11 Q Okay. Do you have any other explanation than
12 that then?

13 A That was the information I used.

14 Q Okay. When Cargill began operations in the
15 IRW, it began operations both with turkeys and with 10:54AM
16 chickens; correct?

17 A I believe that is true, yes, sir.

18 Q How -- looking again at the broiler list,
19 starting at I believe 12 there, tell me what average
20 number per flock means and how it was calculated to 10:54AM
21 go onto this form.

22 A What it means is what the number of birds that
23 would be placed, and it wasn't calculated. It came
24 off the contracts that we saw.

25 Q So that's a fairly reliable number that would 10:55AM

1 have been in fact placed with that grower in that
2 time frame?

3 MR. WALKER: Object to the form.

4 A I believe so, yes, sir.

5 Q And number of flocks, that is the next column 10:55AM
6 on this form, is that number of flocks per year or
7 some other period?

8 A That would be the number of flocks for the
9 period that was on the left-hand side, the date, the
10 left-hand side. 10:55AM

11 Q So that's a total number of flocks from '83 to
12 '85 on the first line entered there?

13 A Yes, sir.

14 Q All right. So the last column obviously then
15 is a multiplication of the two columns that 10:56AM
16 preceded; correct?

17 A Yes, sir.

18 Q And did you work to prepare this broiler
19 contract list similar to what we talked about on the
20 turkey list? 10:56AM

21 A I did help and prepare this list, yes, sir.

22 Q And did you rely on Candy Smith to assist you?

23 A Yes, sir, along with the people I talked to.

24 Q The same people you mentioned earlier,
25 Mefford, Young, Yowell and Delosure? 10:56AM

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1 A No. They didn't help me with the broilers.

2 Q Who helped you with the broilers?

3 A Laverne Thompson and John Kaufeld.

4 Q And let's talk about Mr. Thompson.

5 A Miss Thompson. 10:56AM

6 Q Miss Thompson. Is she currently employed?

7 A Yes, sir.

8 Q Where does she work?

9 A In Springdale.

10 Q What is her position? 10:56AM

11 A Clerk.

12 Q How long has she been with Cargill, LLC?

13 A Cargill -- she started with Cargill, Inc., in
14 the late '70's.

15 Q All right, and continuously employed then 10:57AM
16 until today?

17 A Yes, sir.

18 Q All right, and Mr. Kaufeld, how long has he
19 been employed?

20 A About the same length of time. It was in the 10:57AM
21 late '70's.

22 Q And he's continued to work there now?

23 A Yes, sir.

24 Q And his title is what?

25 A He is a driver, hatchery driver. 10:57AM

1 Q All right. On Page CAR 16, it says Cargill
2 layer contracts. Is that going to be turkeys or
3 chickens?

4 A That would be chickens.

5 Q You have number of birds. Is that birds per 10:58AM
6 flock?

7 A Yes, sir.

8 Q And number of flocks is what, flocks per year
9 or some other period?

10 A I think that's flocks per year. 10:58AM

11 Q And the total would be the multiplication of
12 those two columns; correct?

13 A Yes, sir.

14 Q Is that the same for the next page where we're
15 talking about number of birds in preproduction? 10:58AM
16 That's a number of birds per flock?

17 A Yes, sir.

18 Q And number of flocks or number of flocks per
19 year?

20 A No. That would be number of flocks for the 10:58AM
21 time frame that we could pinpoint they were growing.

22 Q So from '78 to '85 Dennis Alsup -- is he
23 related?

24 A Yes, sir.

25 Q What is he? 10:59AM

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1 **A** My dad.

2 **Q** He's your dad. So from -- is he still alive?

3 **A** Yes, sir.

4 **Q** Did you refer to him and ask whether he know

5 what he grew and what he grew? 10:59AM

6 **A** I asked him -- I did ask him how long they

7 grew.

8 **Q** Okay. So did he grow from '78 to '85?

9 **A** No, sir.

10 **Q** What period of time did he grow for? 10:59AM

11 **A** We -- he owned the farm and the contract. We

12 weren't actually living there. My grandparents did,

13 but three years.

14 **Q** And that period of time he was producing for

15 Cargill? 10:59AM

16 **A** Yes, sir.

17 **Q** But this form says '78 to '85. How did I know

18 he only worked three years?

19 **A** We don't. That was just the time frame that

20 they had -- we didn't know the exact length that 10:59AM

21 these guys grew.

22 **Q** So they could grow for the entire period '78

23 to '85 or some portion of it is what you are telling

24 the court?

25 **A** Yes, sir. 11:00AM

1 Q And you don't have any data to tell us what
2 that is?

3 A What we found, if we had a -- if we found it
4 and we had a date or a contract or something on it,
5 then that's the number that went down. 11:00AM

6 Q The number referring to what?

7 A Number of flocks.

8 Q Okay, and that's for a contract. Wouldn't
9 that be for a single period as opposed for this
10 entire period? 11:00AM

11 A We --

12 Q If you only found one contract for one short
13 period, you just assumed that's the only period they
14 grew?

15 A We didn't -- what we had -- if we had the 11:00AM
16 contracts and we had -- you know, if it was a
17 one-year contract or two-year contract, then we knew
18 that basically they've got about a flock and a half
19 to two flocks a year, and we made that calculation.

20 Q So is this column, flocks per year or flocks 11:01AM
21 total for the period '78 to '85?

22 A That's flocks total.

23 Q Let's -- we need to take a break and we'll
24 come back.

25 VIDEOGRAPHER: We're now off the Record. 11:01AM

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1 The time is 11:00 a.m.

2 (Following a short recess at 11:01
3 a.m., proceedings continued on the Record at 11:09
4 a.m.)

5 VIDEOGRAPHER: We are back on the Record. 11:09AM

6 The time is 11:09 a.m.

7 Q Mr. Alsup, I'm going to hand you what is
8 marked as Exhibit 61. This is an E-mail produced by
9 Cargill to us that is written from John Maurer,
10 M-A-U-R-E-R. Do you know that person? 11:10AM

11 A No, I do not.

12 Q Does that person work in Cargill, if you know?

13 A I do not know.

14 Q All right. Do you know a Dr. Karunakaran,
15 K-A-R-U-N-A-K-A-R-A-N? 11:10AM

16 A Yes, sir.

17 Q All right, does that individual work for or
18 has worked in the past for Cargill, Inc.?

19 A He has worked in the past.

20 Q All right, and his capacity was a 11:10AM
21 veterinarian; is that correct?

22 A Yes, sir.

23 Q And what were his duties or responsibilities
24 at Cargill, Inc., as a veterinarian?

25 A Bird health. 11:11AM

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1 Q Okay. Over what area was he responsible in
2 the Cargill operations?

3 A Complex 00 Virginia, the Harrisonburg,
4 Virginia complex and I believe Waco, Texas.

5 Q Okay. Did he have any duties or 11:11AM
6 responsibilities for the Springdale complex?

7 A No, sir.

8 Q Would he on occasion provide any assistance to
9 the Springdale complex?

10 A It is possible. 11:11AM

11 Q Let me ask you something that I want to kind
12 of clear up. There was a consolidation of
13 Springdale with another complex sometime; am I
14 correct on that; was Ozark operations combined into
15 a Springdale complex operation? 11:11AM

16 MR. WALKER: Object to the form to the
17 extent that corporate organizational issues are
18 reserved for another witness. Answer, if you know.

19 A The Ozark complex was sold to Butterball.

20 Q When was that, if you know? 11:12AM

21 A I don't know. I don't know the exact date.

22 Q Okay. Maybe I should ask this then: Are
23 there growing facilities that are associated with
24 the Springdale complex today, let's say, that are
25 not within the IRW? 11:12AM

1 **A** There are contract growers for the Springdale
2 complex, not in the IRW.

3 **Q** What -- are there contract growers within the
4 Springdale complex -- I'm sorry, let me ask it this
5 way: Are there contract growers that are within the 11:13AM
6 IRW that are associated with a different complex
7 than the Springdale complex?

8 **A** That are contracted with CTP, LLC, no, sir.

9 **Q** Okay. Now, when Cargill operated before June
10 of 2004, is that the same setup that IRW growers 11:13AM
11 would all report to the Springdale complex but there
12 may be -- maybe I better let you say that so I don't
13 get it confused. When Cargill, Inc., operated, are
14 all Springdale -- are all contract growers that are
15 associated with the Springdale complex within the 11:13AM
16 IRW?

17 MR. WALKER: Object to the form.

18 **A** The contract growers that are associated with
19 Springdale complex -- are associated with Springdale
20 if they are in the IRW. 11:14AM

21 **Q** Let's -- so we're both on the same page, are
22 there any growers in the IRW that are associated
23 with a different complex than the Springdale
24 complex?

25 **A** No, sir. 11:14AM

1 Q Okay. So the Springdale complex has all of
2 the IRW growers associated with it, plus there are
3 some that are contract growers not within the IRW;
4 correct?

5 A Yes, sir. 11:14AM

6 Q And generally where are those non-IRW growers
7 located, north of the watershed, east, west; can you
8 give me a geographical range?

9 A Northeast, southeast and due east.

10 Q Okay. Do you know the watersheds that those 11:15AM
11 three geographical areas -- for those growers --
12 excuse me. Do you know which watersheds those
13 growers are in?

14 MR. WALKER: Object to the form, beyond the
15 scope of the topics this witness is noticed for. 11:15AM

16 Q The ones to the southeast, do you know what
17 watershed they would be in?

18 MR. WALKER: Same objection.

19 A The Arkansas River.

20 Q Okay. If you don't know, just tell me. I'm 11:15AM
21 trying to get some idea.

22 A I don't know.

23 Q Do you know the number of growers that are not
24 within the IRW that are associated with Springdale?

25 A I do not know the exact number but -- 11:16AM

1 Q Do you know the ratio or percentage of IRW
2 growers versus non-IRW growers that are in the
3 Springdale complex?

4 MR. WALKER: Mr. Garren, I'd just -- I'd
5 like to know what topic you're on. 11:16AM

6 MR. GARREN: I'm trying to establish
7 another method to determine bird numbers by counting
8 growers and farms.

9 MR. WALKER: Okay. Let's see where this
10 goes. 11:16AM

11 A A rough estimation, 25 percent and 75 percent.

12 Q So 75 percent are the IRW growers within the
13 Springdale complex and the 25 percent are IRW
14 growers that are not within the -- that are -- 25
15 percent are non-IRW growers also connected to the 11:16AM
16 Springdale complex?

17 A No, sir. The 25 percent would be the contract
18 growers in the IRW and the 75 percent would be the
19 contract growers out of the IRW.

20 Q Okay, and so I'm clear, there are no contract 11:17AM
21 growers within the IRW that are associated with any
22 other complex?

23 MR. WALKER: Object to the form.

24 Q Yes or no?

25 A No. 11:17AM

1 Q Okay, all right. So back to Exhibit 61, this
2 talks about certain drug resistance -- I'm sorry,
3 certain resistance to bacteria in poultry litter.
4 Do you know whether or not this issue has been
5 addressed at any time within the IRW that's 11:17AM
6 referenced in the E-mail, talking about -- I believe
7 it's Fluoroquinolone, F-L-U-O-R-O-Q-U-I-N-O-L-O-N-E,
8 resistant bacteria?

9 MR. WALKER: Object to the form.

10 A No. This was not done in the IRW. 11:18AM

11 Q Do you know whether or not the issue was
12 discussed by those who were in charge of the birds
13 within the IRW, meaning the management of them from
14 Cargill representatives?

15 A No, sir. 11:19AM

16 Q Let me ask you to look at Exhibit 63. Are you
17 familiar with this dry poultry manure management
18 publication by the University of Arkansas
19 Cooperative Extension Service?

20 A I have seen the document. 11:19AM

21 Q When did you see the document?

22 A I believe it was -- well, I don't know. I
23 don't remember when I saw this.

24 Q Who would most likely be the person that would
25 have this document in their possession at Cargill? 11:20AM

1 **A** Me.

2 **Q** Okay, and did you refer to this document at
3 any time for exercising your duties and
4 responsibilities in any capacity while in Cargill or
5 Cargill Turkey, LLC?

11:20AM

6 **A** Not that I can recall.

7 **Q** Do you have an opinion whether or not the
8 material contained in this would be of benefit for a
9 company espousing to be a good steward of the
10 environment?

11:20AM

11 MR. WALKER: Object to the form.

12 **A** It -- we could have used it as a source of
13 information.

14 **Q** Do you know whether you did?

15 **A** I don't recall ever using this as a source of
16 information.

11:20AM

17 **Q** Looking at Page 140659 under environmental
18 concerns, the first two sentences under the heading
19 says, maintaining the water quality of the state is
20 a challenge that affects all of us, and then it
21 says, the ultimate concern is to avoid bacteria
22 contamination and excess nutrients in ground and
23 surface water. Does Cargill hold that same belief?

11:21AM

24 MR. WALKER: Object to the form.

25 **A** I don't understand your question.

11:21AM

1 Q Does Cargill believe that statement to be
2 true?

3 MR. WALKER: Same objection.

4 A No, sir, Cargill doesn't agree with that
5 statement.

11:21AM

6 Q Does Cargill Turkey, LLC, agree or believe
7 that statement is true?

8 A No, sir.

9 Q The next heading, it says, water quality.
10 Manure can contaminate water by leaching through
11 shallow soils, fractured rock or limestone
12 formations. Does Cargill agree with that statement
13 as being true?

11:22AM

14 A Where did you read that?

15 Q Under water quality. Manure can contaminate
16 water by, colon, leaching through shallow soils,
17 fractured rock or limestone formations. Does
18 Cargill believe that to be true?

11:22AM

19 A That would be a site-specific answer.

20 Q Well, it talks about site specific for those
21 shallow soils that are fractured rock or limestone
22 formations. Wouldn't that be site specific?

11:22AM

23 MR. WALKER: Object to the form.

24 A Sir, if you're following your nutrient
25 management plans and you are using BMPs, no, sir,

11:22AM

1 Cargill does not believe that would happen.

2 Q Okay. I'm asking you just with regard to this
3 statement: Is it true, as far as Cargill believes,
4 that manure can contaminate water by leaching
5 through shallow soils, fractured rock or limestone 11:23AM
6 formations, yes or no?

7 MR. WALKER: Object to the form, asked and
8 answered.

9 A If BMPs are not used, nutrient management plan
10 is not used and -- it could be a possibility. 11:23AM

11 Q Do you recall reading, sir, earlier in your
12 deposition the statement in another environmental
13 management handbook that says that, and it's the one
14 that is used by Cargill, that nutrient loss can
15 occur even though the nutrient management guidelines 11:23AM
16 are followed; do you recall reading that?

17 A Yes, sir, I remember that.

18 Q Now, let me ask you this: Does Cargill
19 believe it's true that manure can contaminate water
20 by running off from areas where manure has been 11:23AM
21 improperly stored or misapplied?

22 A If it has been improperly stored or
23 misapplied, there is an increased risk that that
24 could happen.

25 Q Okay. It says manure can contaminate water 11:23AM

1 from water by running off from areas where manure
2 has been improperly stored or misapplied. Does
3 Cargill, Inc., believe that to be true, yes or no?

4 MR. WALKER: Object to the form, asked and
5 answered. 11:24AM

6 A Where did you read that at?

7 Q The same thing I just read to you before.
8 It's the second bullet point under water quality.

9 A If make -- if litter is improperly stored or
10 misapplied, there is an increased risk of some water 11:24AM
11 quality.

12 Q Okay. I just want you to either answer this
13 yes or no. Does Cargill believe it's true or not,
14 that can be yes or no, manure can contaminate water
15 by running off from areas where manure has been 11:24AM
16 improperly stored or misapplied, yes or no, does
17 Cargill believe that to be true?

18 MR. WALKER: Object to the form.

19 A That is not a --

20 MR. WALKER: Object to the form. It's been 11:24AM
21 asked and answered.

22 A That is not a yes or no answer. That is a
23 site-specific answer, and I believe I answered it by
24 saying if in certain times if improperly stored or
25 misapplied, the risk can go up, that that can 11:25AM

1 happen.

2 Q Okay. Look at the next page, 660, in the same
3 document under health concerns. It says, all animal
4 manures are a potential source of disease-causing
5 organisms. Does Cargill believe that to be true,
6 yes or no?

11:25AM

7 A No, sir.

8 Q It goes on to say, these pathogens can infect
9 humans through contact with a contaminated water
10 source. Does Cargill believe that to be true or
11 not?

11:25AM

12 A No, sir.

13 Q Does Cargill Turkey, LLC, believe either one
14 of those statements to be true?

15 A No, sir.

11:25AM

16 Q Let me hand you Exhibit 69, sir. This Exhibit
17 69 is an E-mail from Floyd at whiteriverbasin.org to
18 Steven Willardsen, Archie Schaffer, Tim Alsup. The
19 subject is meeting with Goodlatte. Do you see that?

20 A Yes, sir.

11:26AM

21 Q Do you know who Mr. Goodlatte is?

22 A No, sir.

23 Q Okay. Let's just look at the third paragraph
24 in this. In the last sentence of that paragraph it
25 says, Tim was able to use some of discussion from

11:26AM

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1 Wednesday to provide some additional depth on P
2 loads of soils where litter has been spread for many
3 years. Do you see that sentence?

4 A Uh-huh.

5 Q And is the Tim that's referred here referring 11:26AM
6 to you?

7 MR. WALKER: Object to the form.

8 A Yes, sir.

9 Q And what did you do to use some of the
10 discussion on Wednesday to provide additional depth 11:26AM
11 on P loads of soils? Tell me what you did.

12 A I would have gotten them in touch with
13 probably somebody at a university or a state.

14 Q And gotten who in touch with?

15 A Floyd. 11:27AM

16 Q So you're saying you would have referred Floyd
17 to some university?

18 A Uh-huh.

19 Q That's a yes?

20 A Yes, sir. 11:27AM

21 Q Okay. What was the discussion about on
22 Wednesday that's referenced in this? Were you a
23 party to it?

24 A I don't have any -- I don't know.

25 Q Let me hand you Exhibit 70, Mr. Alsup. This 11:27AM

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1 is another document produced by Cargill to the State
2 of Oklahoma, and I believe I've produced all that
3 existed, but it appears to be a document from the
4 Department of Poultry Science at the University of
5 Georgia. Do you recognize this document as one that 11:28AM
6 may have been in your possession?

7 A No, sir.

8 Q Do you know who would have had this document
9 at Cargill?

10 A No, sir. 11:28AM

11 Q Does Cargill or Cargill Turkey, LLC, rely on
12 information from universities, other than the
13 University of Arkansas, as it might pertain to
14 environmental concerns from its growing operations?

15 A Yes, sir. 11:29AM

16 Q Would University of Georgia be a good source
17 of information relative to poultry operations and
18 possible environmental effects?

19 A I don't know how good. It would be a source
20 -- it could be a source of information. Whether 11:29AM
21 it's good or not, I don't know.

22 Q Do you know Georgia to be a large
23 poultry-producing state similar to Arkansas let's
24 say?

25 A Yes, sir. 11:29AM

1 Q It is, is it not?

2 A Yes, sir.

3 Q Okay. Looking at Page 516 in this document,
4 it talks about an overview of federal and state
5 regulations affecting poultry operations. Are you, 11:29AM
6 sir, aware of The Clean Water Act of 1972?

7 A I have heard of The Clean Water Act, yes.

8 Q Is there anyone in Cargill, Inc., or now
9 Cargill Turkey, LLC, who has responsibility in
10 following federal legislation that might affect 11:30AM
11 poultry operations?

12 A In regards to what?

13 Q Anything with regard to affecting poultry
14 operations that might become part of the federal
15 legislation or laws? 11:30AM

16 MR. WALKER: Object to the form.

17 A It would be the responsibility of all --
18 everybody to follow all rules and regulations.

19 Q Let me ask my question again. Who at Cargill,
20 Inc., or LLC would be responsible in following 11:30AM
21 legislation that affects Cargill's poultry
22 operations from an environmental standpoint only?

23 A The managers.

24 Q Managers of who?

25 A The ag managers, breeder managers. 11:30AM

1 Q Both the ag manager and the breeder managers
2 have that responsibility in Cargill and LLC to do
3 that?

4 A As along with everybody else but, yes, sir,
5 there are two primary.

11:31AM

6 Q So is a contract grower required to follow
7 legislation that might impact its growing facility?

8 A Yes, sir. We -- in the contract it says our
9 contract producers will follow all state and federal
10 rules and regulations.

11:31AM

11 Q It doesn't say they will follow legislation as
12 it might impact them, though, does it?

13 A Sir, if it's a legislation and it's a law,
14 they're going to follow it.

15 Q Who -- is there an individual in Cargill,
16 Inc., or now LLC, that has the responsibility for
17 Cargill, Inc., or the LLC to follow legislation and
18 to report on that legislation to Cargill or the LLC
19 that might affect Cargill's or the LLC's poultry
20 growing operations from an environmental standpoint?

11:31AM

11:32AM

21 MR. WALKER: Object to the form of the
22 question as beyond the scope of this witness'
23 designated testimony. Answer, if you know.

24 A For the breeder farms that we own, the breeder
25 manager and the ag manager are responsible.

11:32AM

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1 Q Responsible to do what?

2 A To make -- to follow the laws and rules and
3 regulations of the State.

4 Q Listen to me because I'm maybe not
5 communicating. Let me try and break it down 11:32AM
6 simpler. Is there somebody in Cargill, Inc., that
7 has the duty to simply follow whether any pending or
8 proposed legislation will affect Cargill's growing
9 operations from an environmental standpoint?

10 MR. WALKER: Same objection. 11:33AM

11 A To follow, you mean as in to --

12 Q To be aware of.

13 A To be aware of it?

14 Q Yes, sir.

15 A For our breeder farms, it could be -- breeder 11:33AM
16 manager wouldn't, but the ag manager, our complex
17 manager, if he's talking with a state or I mean
18 political, anybody political. You know, I could.

19 Q My question is not by happenstance. I'm
20 asking, is it part of their duties and 11:33AM
21 responsibilities to be aware of and follow and
22 advise with regard to legislation that might impact
23 or affect the poultry operations from an
24 environmental standpoint?

25 MR. WALKER: Object to the form, beyond the 11:33AM

1 scope of testimony noticed for this witness.

2 A Anything -- I don't know about proposed. If
3 it goes into -- if it's passed and it's a law, it's
4 a regulation, then, yes, everybody in Cargill has a
5 duty to follow that law and regulation. If it's 11:34AM
6 in -- I mean I don't understand how laws are passed,
7 but if it's in a committee or if it's some idea,
8 will somebody in Cargill keep track of that, no,
9 sir, I doubt it.

10 Q Let me ask you this way then: There's usually 11:34AM
11 a period between the time that a law is approved and
12 before it becomes enacted or in effect; do you
13 understand that concept?

14 MR. WALKER: Object to the form, beyond the
15 scope of this witness' testimony for what has been 11:34AM
16 designated.

17 Q Do you understand the concept?

18 A I understand there's a process of getting a
19 law --

20 Q No, sir. Do you understand that there's a 11:35AM
21 time period between when a law is proposed and from
22 when it's proposed to be a law that in fact it
23 becomes a law?

24 MR. WALKER: Same objection.

25 Q Do you understand that or not? 11:35AM

1 **A** Okay.

2 **Q** All right. Now, let me ask it this way then:

3 During that time frame, is there somebody in Cargill

4 who has a duty knowing that a law has been passed

5 and will be effected at a future date, to be aware 11:35AM

6 of that and advise Cargill how that might or might

7 not impact its growing operations from an

8 environmental standpoint?

9 MR. WALKER: Object to the form.

10 **A** I do not know. 11:35AM

11 **Q** Okay. When you held the title as

12 environmental coordinator, was it your duty to

13 determine whether or not federal or state law that

14 has been enacted but not yet in effect to advise

15 Cargill or the LLC of that law and how it might 11:35AM

16 impact or affect its growing operations from an

17 environmental standpoint?

18 MR. WALKER: Object to the form.

19 **A** If the law has been -- if it's been passed, I

20 would have informed -- I would have informed 11:36AM

21 Cargill, LLC, that this law has been passed, yes,

22 sir.

23 **Q** So you were following state and federal laws

24 that might from an environmental standpoint impact

25 growing operations for the LLC at some time? 11:36AM

1 **A** No, sir. I was not following -- if it was
2 passed, then I would hear about it from somebody,
3 but anything -- I was not following anything that --
4 from that time period you talked about it being
5 proposed to being passed. 11:36AM

6 **Q** Did -- what was the period of time you held
7 the title of environmental coordinator?

8 **A** 2002.

9 **Q** Until what period?

10 **A** 2002. 11:37AM

11 **Q** A single year?

12 **A** Roughly. It could have been a little into
13 '01 and a little into '03.

14 **Q** Okay. Is Cargill, Inc., familiar with The
15 Water Quality Act of 1987? 11:37AM

16 **A** Is that a federal --

17 **Q** Let me ask it this way: Is Cargill, Inc.,
18 familiar with The Water Quality Act of 1987 as it
19 might pertain to impacting the growing operations
20 that Cargill has? 11:37AM

21 MR. WALKER: Object to the form as beyond
22 the scope of this witness' designated testimony. I
23 don't see any designation for somebody to testify
24 about federal environmental law.

25 MR. GARREN: I didn't ask him to do that. 11:37AM

1 MR. WALKER: I think that's what your
2 questions have been for the last ten minutes.

3 MR. GARREN: I asked if he was aware of a
4 law, specific law, and it would go to practices,
5 procedures. It would go to policies, 11:38AM
6 recommendations, procedures past and present,
7 pertaining to management, handling, storage,
8 transportation.

9 MR. WALKER: You didn't ask him about
10 policies; you didn't ask him about procedures. You 11:38AM
11 asked him about laws.

12 MR. GARREN: Now, when you are through
13 making your speaking objection, I'll move forward,
14 but as we discussed yesterday, and as Mr. Tucker and
15 I had a discussion with the magistrate two days 11:38AM
16 before, those are improper. You know it, and I'm
17 asking you to stop doing it. Object to the form.

18 MR. WALKER: This witness is not designated
19 on that subject.

20 MR. GARREN: Simply object to the form. 11:38AM

21 MR. WALKER: So objected.

22 MR. GARREN: All right.

23 Q Is Cargill, Inc., familiar with The Water
24 Quality Act of 1987 as it might impact or affect the
25 poultry growing operations specifically in the IRW? 11:38AM

1 MR. WALKER: Same objection.

2 A I do not know.

3 Q Is Cargill, LLC, familiar with The Water
4 Quality Act of 1987 as it might impact or affect the
5 LLC's poultry growing operations in the IRW? 11:39AM

6 MR. WALKER: Same objection.

7 A I do not know.

8 Q Explain to me, please, with regard to the
9 Precision Ag program that was operated by Cargill,
10 and it was Cargill, LLC, or it was actually a 11:39AM
11 combination, Inc. and LLC, was it not?

12 MR. WALKER: Object to the form.

13 A I believe it went --

14 Q It went over the period between 2004 and into
15 2004? 11:40AM

16 A I believe that is correct, yes, sir.

17 Q So tell me -- what I want to know is what was
18 the entire source of poultry waste that was used for
19 that program?

20 MR. WALKER: Object to the form. 11:40AM

21 A We used the poultry litter from contract farms
22 that were contract turkey farms in Springdale with
23 one exception.

24 Q And that was a Simmons farm?

25 A A couple houses from the Simmons farm. 11:40AM

1 Q The breeder facilities did not supply poultry
2 waste for that program; am I correct in that?

3 A Yes, sir.

4 Q And is that because the poultry waste in the
5 breeder farm has a different nutrient content?

11:41AM

6 A Yes, sir.

7 Q And it's based on that difference in that
8 nutrient content that it was decided not to be used;
9 correct?

10 A Yes, sir.

11:41AM

11 Q And what is the difference in that nutrient
12 content that caused the decision that breeder
13 poultry waste would not be used?

14 A It's generally lower in K2O and it has --
15 sometimes it's lower in P2O5 and N. I don't
16 remember the difference in the micronutrients.

11:41AM

17 Q Okay, but generally the three major nutrients
18 are generally lower is what you are telling me?

19 A Yes, sir.

20 MR. WALKER: Object to the form.

11:42AM

21 Q Lower than grow-out turkey poultry waste;
22 correct?

23 MR. WALKER: Object to the form.

24 Q Let me make it clear so -- these objections
25 are being made -- that you and I are both on the

11:42AM

1 same pages. We're comparing breeder poultry waste
2 to turkey poultry waste non-breeder birds; correct?

3 MR. WALKER: Object to the form.

4 A I understand we are comparing turkey litter
5 from breeders and turkey litter from contract -- 11:42AM
6 commercial contract birds.

7 Q Okay. Let me hand you Exhibit 100. This
8 appears to be a contract file of a Donnie Wilmoth.
9 Mr. Wilmoth is a contract grower for Cargill or was
10 at one time. Do you know that to be the case? 11:43AM

11 A He is not a contract grower at this time.

12 Q Okay. In the past he was a grower for
13 Cargill, Inc.; correct?

14 A I believe that is true, yes, sir.

15 Q All right. He's located in Decatur, Arkansas 11:43AM
16 based upon a P. O. Box. Nathan Mefford is his
17 service rep. Do you see that on the first page of
18 this exhibit or the second page of this exhibit?

19 A Yes, sir.

20 Q And Nathan Mefford, is that the person that 11:43AM
21 you mentioned earlier that you talked to to get some
22 advice when we're looking at bird numbers and that
23 sort of thing?

24 A Yes, sir.

25 Q All right. Going further back within his file 11:44AM

1 is what appears to be his nutrient management plan.

2 What is the reason that his nutrient management plan
3 would be in this file that Cargill would have?

4 A I do not know.

5 Q Do you know whether or not Cargill in fact has 11:44AM
6 more nutrient management plans in its files that may
7 not have been produced?

8 A I do not know.

9 Q You would agree that at some time Cargill,
10 Inc., and later Cargill Turkey, LLC, asked whether 11:44AM
11 growers had -- let me rephrase that because I may be
12 misstating it. At some point Cargill, LLC, asked
13 the growers whether they had nutrient management
14 plans; correct?

15 A Yes, we have asked in the past. 11:44AM

16 Q And when that was asked, did anybody from
17 Cargill, LLC, look at and verify a plan was in fact
18 in existence with a grower?

19 A It was strictly do you have one, yes or no.

20 Q Okay, and was that question presented to the 11:45AM
21 grower from a flock supervisor?

22 A Yes, sir.

23 Q All right. Would you agree with me that it
24 would be just as easy to get a copy of the plan as
25 it is to ask for it? 11:45AM

1 MR. WALKER: Object to the form.

2 A No, sir.

3 Q Okay. Would you agree with me that if
4 Cargill, LLC, asked for the plan, the growers would
5 have given it to you? 11:45AM

6 MR. WALKER: Object to the form.

7 A We would not have asked for the plan.

8 Q I'm asking you, if you did, would you -- is
9 there any reason why you would expect the grower not
10 to provide you a copy? 11:45AM

11 A Yes, sir.

12 Q What would be that reason?

13 A It's their business, their facility, their own
14 operational guide.

15 Q Did you ever ask any grower, other than this 11:46AM
16 Mr. Wilmoth, to provide Cargill, LLC, the nutrient
17 management plans?

18 A Sir, to my knowledge we have never asked any
19 grower for that.

20 Q Does Cargill, LLC, receive any reports from 11:46AM
21 the State of Arkansas explaining whether or not
22 certain growers have nutrient management plans in
23 effect?

24 A Not to my knowledge.

25 Q Look at page last three digits 420 in this 11:46AM

1 document, which is a soil test report dated March 2,
2 1998. Do you see that document?

3 A Yes, sir.

4 Q And this soil test, even though it's
5 obliterated or hard to read, shows a pounds per acre 11:47AM
6 of phosphorus level 874. Do you see that, this box
7 here, sir?

8 A I see an 87 and then I don't know what that is
9 but --

10 Q Assuming that's an 874 STP pounds per acre, 11:47AM
11 does Cargill have an opinion whether that is an
12 excessive level for phosphorus in soil?

13 MR. WALKER: Object to the form.

14 A If you're looking at -- if the State has a
15 threshold limit, that could be high, and if they're 11:47AM
16 using a PI, going through the calculation, yes, sir,
17 that could be high.

18 Q This particular test is a 1998 test. If we
19 had a test that was within the same time frame of
20 Cargill, LLC, is Cargill, LLC's opinion the same as 11:48AM
21 you just expressed for Cargill, Inc., relative to
22 whether this would be a high soil test phosphorus?

23 MR. WALKER: Object to the form.

24 A If you're saying if this was taken after June
25 of '04, yes, sir, the opinion would be the same. 11:48AM

1 Q Okay. Let me hand you Exhibit 99 and ask you,
2 sir, whether Cargill, Inc., is familiar with the
3 legislation that was enacted in the state of
4 Arkansas that governed poultry operations? That
5 legislation I think was passed in 2004, effective in 11:49AM
6 2006, poultry operations, Arkansas soil nutrient
7 application utilization, Arkansas Poultry
8 Registration Act, an act to certify soil and
9 nutrient management planners and soil nutrient
10 applicators. Are you familiar with that, with those 11:49AM
11 legislations?

12 A Are we talking about Cargill, Inc., or
13 Cargill, LLC?

14 Q Well, let's start with LLC. Let me back up.
15 We're on a cusp of both of them. We've got a 11:50AM
16 proposal of legislation in '03 that became law in
17 '04. So if there's a difference between Cargill,
18 Inc., and LLC with regard to your answers, will you
19 let me know?

20 A Yes. 11:50AM

21 Q Okay. Now, is -- was Cargill, Inc., familiar
22 with legislation proposed in Arkansas in 2003 that
23 would have effects on its growing operations in that
24 state?

25 A The level -- had we heard about that there was 11:50AM

1 some proposed legislations, yes.

2 Q Okay.

3 A The depth of what they were, I don't know.

4 Q Is there an individual in the Cargill
5 organization, whether it's Inc. or LLC, that would 11:50AM
6 have had some responsibility to assist in making
7 comments to proposed legislation that would impact
8 its growing operations other than lawyers?

9 A No, sir. I don't think so.

10 Q Mr. Maupin testified in front of Congress at 11:51AM
11 one time. Do you remember that occurring? Let me
12 put it this way: Are you aware that that happened?

13 A For Cargill?

14 Q He was there speaking on behalf of the
15 National Turkey Federation and I think the National 11:51AM
16 Chicken Council, which later were differently named,
17 but do you remember that Mr. Maupin had some
18 testimony in front of the Congress at some time?

19 A I have not seen it. You know, I don't know if
20 he -- I mean okay. 11:51AM

21 Q Do you know whether anyone else in Cargill,
22 Inc., or Cargill, LLC, has appeared, let's say, in
23 the state of Arkansas to provide testimony relevant
24 to proposed legislation in 2003 as to the poultry
25 industry? 11:52AM

1 **A** I do not know of any.

2 MR. WALKER: Mr. Garren, if I could just
3 bring to your attention, I see on the first page of
4 Exhibit 99 is an E-mail with attorneys' names. I've
5 got a copy of a February 22nd, 2008 letter to you in 11:52AM
6 which we requested, pursuant to the clawback, to
7 have that denoted as privileged. I don't have any
8 problem with Exhibit 99 being the attachment to that
9 E-mail, but the E-mail itself at CARTP 230242 is
10 privileged and I ask that it be -- 11:52AM

11 MR. GARREN: If that's in fact listed in
12 that letter, I'll be happy to do it.

13 MR. WALKER: Here's the letter.

14 MR. GARREN: We'll remove that first page
15 and designate the balance of it. 11:52AM

16 MR. WALKER: That would be fine.

17 **Q** Do you know Mr. Jerry Hunton?

18 **A** Jerry Hunton? The name is familiar.

19 **Q** Does Cargill, LLC, know a Mr. Jerry Hunton or
20 representatives within Cargill? 11:53AM

21 **A** They possibly could. The name sounds
22 familiar, so I must have heard the name somewhere.

23 **Q** Does Cargill, Inc., know a Mr. Morril
24 Harriman?

25 **A** Yes, sir. 11:53AM

1 Q Tell me how they know him.

2 A He was president of The Poultry Federation.

3 Q All right. Let's -- I'm going to ask you some

4 questions with regard to the time frame involving

5 the City of Tulsa lawsuit versus various poultry

11:54AM

6 integrators. Are you familiar with that lawsuit?

7 A Yes, sir.

8 Q And are you familiar with the fact that

9 Cargill, Inc., was a party defendant to that

10 lawsuit?

11:54AM

11 A Yes, sir.

12 Q All right, and as a result of that lawsuit, a

13 settlement agreement was reached. Are you aware of

14 that?

15 A Yes, sir.

11:54AM

16 Q And that lawsuit involved the Eucha-Spavinaw

17 watershed, did it not?

18 A Yes, sir.

19 Q All right. As a result of that lawsuit and

20 that settlement, identify to me any changes that

11:54AM

21 Cargill or the LLC made in its turkey growing

22 operations in the IRW as a result of what it learned

23 in that City of Tulsa case.

24 A Cargill did not have any growing facilities in

25 the Eucha-Spavinaw.

11:55AM

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1 Q I'm going to read my question to you again, if
2 you'll listen. I didn't ask that. All right? It
3 says, and I'll ask you to identify any changes
4 Cargill, Inc., or the LLC made in its own operations
5 in the IRW as a result of what it learned in the 11:55AM
6 City of Tulsa case.

7 A We didn't make any changes.

8 Q Identify for me any changes that Cargill,
9 Inc., or LLC required of its contract growers in the
10 IRW as a result of what it learned in the City of 11:55AM
11 Tulsa case.

12 A We did not change.

13 Q Were any instructions or recommendations made
14 that were different -- let me rephrase that. Were
15 any instructions or recommendations made to contract 11:56AM
16 growers in the IRW that were different than
17 previously existed as a result of what Cargill or
18 the LLC learned from the City of Tulsa case as it
19 pertains to the spreading of poultry waste?

20 MR. WALKER: Object to the form. 11:56AM

21 A No, sir.

22 Q Let me hand you Exhibit No. 74.

23 MR. WALKER: Mr. Garren, I see this a
24 National Turkey Federation document. As stated
25 yesterday on the Record, this witness is not being 11:57AM

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1 offered for matters concerning the NTF.

2 MR. GARREN: I haven't even asked him a
3 question, Counsel.

4 MR. WALKER: I'm just letting you know.

5 MR. GARREN: I haven't even asked him a 11:57AM
6 question. Please, no more speaking objections.

7 MR. WALKER: Ask your question.

8 Q Look at Page 135906, sir. Do you see in the
9 upper left-hand corner what appears to be a little
10 Post-It fax note with the same Steve Willardsen on 11:57AM
11 it?

12 A Yes, sir.

13 Q Does Cargill, Inc., know who George Pace is
14 who purports to be the sender?

15 A I don't know. 11:58AM

16 Q Does Cargill --

17 A I do not know.

18 Q Cargill, Inc., doesn't know?

19 A I do not know if Cargill, Inc., knows who he
20 is. 11:58AM

21 Q Does the LLC know who Mr. Pace is?

22 A The same answer. I don't know.

23 Q Does Cargill, Inc., or Cargill, LLC, receive
24 similar National Turkey Federation environmental
25 updates as we see in this exhibit? 11:58AM

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1 MR. WALKER: Object to the form, beyond the
2 scope of testimony for this witness' designation.

3 A I do not know.

4 Q When you held the title of environmental
5 coordinator, were you ever provided information from 11:58AM
6 the National Turkey Federation such as this
7 environmental update?

8 A No, sir, I didn't.

9 Q Under the heading, phosphorus as a limiting
10 factor for land application manure, do you see that 11:59AM
11 heading about midway on the first page, first page
12 of the document? I'm sorry. I skipped back to the
13 first page.

14 A Okay. I see the sentence.

15 Q This talks about, unfortunately a 11:59AM
16 phosphorus-based standard as opposed to a
17 nitrogen-based standard could be particularly
18 troublesome for some poultry producers. Do you know
19 why that is?

20 MR. WALKER: Object to the form. 12:00PM

21 A I don't know what the author was talking about
22 here, no, sir.

23 Q Does Cargill itself have an opinion as to why
24 a phosphorus-based standard as opposed to a
25 nitrogen-based standard could be particularly 12:00PM

1 troublesome for poultry producers?

2 MR. WALKER: Object to the form.

3 **A** Sir, I don't know what troublesome means, but

4 if you're going from a nitrogen-based to a

5 phosphate-based, it changes requirements if that's

12:00PM

6 what you mean.

7 **Q** And you don't understand what troublesome

8 means?

9 MR. WALKER: Object to the form.

10 **A** Troublesome -- I mean it says for some poultry

12:01PM

11 producers. Your changing how they do business, so

12 does that mean they don't like it? I don't know

13 what that means.

14 **Q** Okay. It's referring to a phosphorus-based as

15 opposed to a nitrogen-based standard, though, does

12:01PM

16 it not?

17 MR. WALKER: Object to the form.

18 **Q** And in that context, do you know why that

19 would be troublesome?

20 MR. WALKER: Object to the form.

12:01PM

21 **A** Their nutrient management plan would change.

22 **Q** Okay. It says and it refers to Maryland's

23 east shore, and it talks about excessive phosphorus

24 levels as high as 750 pounds per acre. Do you see

25 that phrase there?

12:02PM

1 **A** Yes, sir.

2 **Q** The last sentence then goes on to say,
3 apparently at this degree of concentration, it would
4 take decades to lower the phosphorus in the soil to
5 an acceptable level. Do you see that sentence?

12:02PM

6 **A** Yes, sir.

7 **Q** Does Cargill have an opinion whether that's
8 true or not?

9 MR. WALKER: Object to the form, objection,
10 beyond the scope of this witness' testimony.

12:02PM

11 **A** No, sir.

12 **Q** It doesn't have an opinion?

13 MR. WALKER: Object to the form.

14 COURT REPORTER: I'm sorry, I didn't hear
15 your answer.

16 **A** Huh?

17 COURT REPORTER: I didn't hear your answer.

18 **A** It does not have an opinion.

19 **Q** Let me hand you Exhibit 76, sir. Are you
20 familiar with this document?

12:02PM

21 **A** I believe I have seen at least part of this
22 document, yes.

23 **Q** Look at Page 140683. In the right-hand column
24 it talks about the governor's animal waste task
25 force recommended to the governor in its 1993 report

12:03PM

1 and that the State continued to -- continue its
2 program of voluntary implementation of BMPs to
3 control poultry waste; do you see that?

4 A Yes, sir.

5 Q And this is referring to that task force in 12:03PM
6 the state of Arkansas, is it not, Governor Clinton's
7 task force in '93?

8 MR. WALKER: Object to the form.

9 A I guess so.

10 Q Well, this is an Arkansas-produced agency 12:04PM
11 document. Would there be any reason to talk about
12 anything other than Arkansas?

13 A No, sir.

14 Q Okay. Did -- what, if any, involvement did
15 Cargill, Inc., have with regard to the governor's 12:04PM
16 animal waste task force that resulted in this 1993
17 report?

18 A There was no involvement.

19 Q Let me hand you what's been marked as Exhibit
20 No. 8. This is a document the State has obtained 12:04PM
21 from the Arkansas Natural Resource Commission. It's
22 a document with a Cargill letterhead dated October
23 13, 1992. Do you see that?

24 A Yes, sir.

25 Q Do you know a gentleman by the name of Hugh 12:05PM

1 Dorminy as general manager in the Russellville
2 project?

3 MR. WALKER: Object to the form.

4 A No, sir.

5 Q Does Cargill, Inc., recognize the name Hugh 12:05PM
6 Dorminy, general manager Russellville project?

7 A Cargill, Inc., poultry division, not to my
8 knowledge, no, sir.

9 Q Does Cargill, Inc., recognize Hugh Dorminy,
10 general manager of the Russellville project? 12:05PM

11 A We have a pork division in Russellville, so,
12 yes, Cargill, Inc., would know who that is.

13 Q And your testimony is that as far as you know,
14 Cargill, Inc., had no one participating in the task
15 force in the state of Arkansas that was proposed and 12:06PM
16 run by the governor?

17 A In preparing for this case, I didn't run on to
18 anybody that was in there that was doing anything
19 there.

20 Q Do you see the first paragraph in this letter 12:06PM
21 that says, listed below are my comments regarding
22 the third draft of a proposal for the prevention and
23 abatement of pollution from animal waste production
24 and disposal in Arkansas; do you see that sentence?

25 A Yes, sir. 12:06PM

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1 Q It appears from this letter Mr. Dorminy for
2 Cargill was writing to the Arkansas Soil & Water
3 Conservation Commission a Ms. or Mrs. Laura Garnett;
4 is that correct from what you see in this letter?

5 MR. WALKER: Just object to the line of 12:07PM
6 questioning on this document as beyond the scope of
7 this witness' designated testimony. Answer, if you
8 know.

9 A Okay.

10 MR. GARREN: Can you read back the question
11 for him?

12 (Whereupon, the court reporter read
13 back the previous question.)

14 A Yes, sir.

15 Q And this document says that he has listed 12:07PM
16 below comments regarding a proposal for the
17 prevention and abatement of pollution from animal
18 waste production and disposal in Arkansas; do you
19 see that?

20 A Yes. 12:08PM

21 Q And attached to this document is a third draft
22 of a joint proposal of the Arkansas Soil & Water
23 Conservation Commission and the ADEQ of the
24 governor's animal waste task force, April 29, 1992,
25 revised twice; do you see that page? 12:08PM

1 MR. WALKER: Which page are you on?

2 MR. GARREN: The third page of the
3 document, first page of the attachment.

4 MR. WALKER: He just asked if you've seen
5 it. 12:08PM

6 A Yes.

7 Q You see the document?

8 A I see the document.

9 Q Do you know whether or not anyone else in
10 Cargill, Inc., contributed to the governor's task 12:08PM
11 force on animal waste management in the time frame
12 of 1992, 1993?

13 MR. WALKER: Object to the form, beyond the
14 scope.

15 A I do not know. 12:09PM

16 MR. GARREN: We need to break because of
17 the tape. We'll come back after lunch.

18 VIDEOGRAPHER: We're now off the Record.
19 The time is 12:08 p.m.

20 (Following a lunch recess at 12:09 12:09PM
21 p.m., proceedings continued on the Record at 1:15
22 p.m.)

23 VIDEOGRAPHER: We are back on the Record.
24 The time is 1:15 p.m.

25 Q Mr. Alsup, I'll remind you you are still under 01:15PM

1 oath. Do you understand that?

2 A Yes, sir.

3 Q Let me hand you Exhibit 81 and ask you whether

4 or not you have seen this document from the Alabama

5 Cooperative Extension Service, Auburn University, 01:16PM

6 entitled poultry waste management and environmental

7 protection manual. This was a document presented to

8 the State in document production from Cargill. I'll

9 represent to you this is -- was told by us -- told

10 by Cargill to the State of Oklahoma this comes from 01:16PM

11 James Barton's files. Do you know a Mr. James

12 Barton in Cargill?

13 A I know a Dr. Barton, yes. He's not with

14 Cargill.

15 Q Was he with Cargill at some time? 01:17PM

16 A Yes, sir.

17 Q And what time period was he with Cargill?

18 A The -- I don't know. The late '90's to 2004

19 roughly.

20 Q Okay. So he would have been with Cargill, 01:17PM

21 Inc., and not the LLC as best you recollect?

22 A I don't know if -- the best I can recollect,

23 yes.

24 Q And what was his position with Cargill, Inc.?

25 A He was a veterinarian. 01:17PM

1 Q And where was he located?

2 A He lived at Springdale.

3 Q Did he provide veterinary services then for
4 the Springdale complex for Cargill?

5 A Yes, he did. 01:18PM

6 Q Did you ever see this manual that is Exhibit
7 81?

8 A No, sir, I have not.

9 Q Is the University of Alabama a source that
10 Cargill would look to to assist it in its poultry 01:18PM
11 growing operations?

12 A It could be a source of information.

13 Q As a veterinarian, did Dr. Barton have any
14 other duties or responsibilities besides veterinary
15 services when he was with Cargill? 01:19PM

16 A No. Bird health would have been his
17 responsibility.

18 Q Do you know whether or not Dr. Barton had any
19 activities involving the analysis of poultry waste
20 for Cargill? 01:19PM

21 MR. WALKER: Object to the form.

22 A I do not think Dr. Barton tested any poultry
23 litter.

24 Q Do you know whether or not Dr. Barton either
25 analyzed or educated himself with published 01:19PM

1 literature with regard to the effects of poultry
2 waste from the turkeys that Cargill was growing?

3 MR. WALKER: Object to the form.

4 A I do not know what Dr. Barton's knowledge or
5 training was. 01:20PM

6 Q Okay. My question was, do you know whether or
7 not Dr. Barton either analyzed or educated himself
8 with published literature regarding effects of
9 poultry growing operations and in particular how it
10 might impact the environment? 01:20PM

11 MR. WALKER: Object to the form.

12 A I do not know.

13 Q Look at Page 16644. There's -- there should
14 be a page that shows the importance of waste
15 management. Do you see that, sir? 01:20PM

16 A Yes, sir.

17 Q Okay, and there's a statement that Alabama is
18 the second largest broiler-producing state and ranks
19 tenth in egg production. Do you know how that
20 compares to Arkansas in the early '90's? 01:21PM

21 MR. WALKER: Object to the form, beyond the
22 scope of this witness' testimony.

23 A No, sir.

24 Q Okay. It says in this statement that,
25 therefore, poultry operations must have a 01:21PM

1 comprehensive waste management plan to allow
2 producers in the industry to continue reaping
3 financial benefits of production, while reducing the
4 risks associated with the use and disposal of waste.

5 In early '90 did Cargill share that view that's
6 stated here?

01:21PM

7 MR. WALKER: Same objection.

8 A Please tell me where --

9 Q I'm sorry. Right there in that paragraph.

10 A Okay.

01:21PM

11 Q The first sentence.

12 MR. WALKER: Which paragraph? I'm sorry.
13 I'm lost, too.

14 MR. GARREN: Right-hand column, the second
15 paragraph from the bottom starting therefore.

01:22PM

16 A Cargill was -- in the '90's was recommending
17 the use of nutrient management plans, yes, sir.

18 Q In what part of the '90's was Cargill doing
19 that?

20 A Without -- '96, '97, '98.

01:22PM

21 Q All right. Did -- is Cargill familiar with a
22 1988 water quality report made to the Congress
23 identifying non-point source pollution as one of the
24 important factors affecting water quality of many
25 lakes?

01:23PM

1 MR. WALKER: Object to the form.

2 Objection, beyond the scope of this witness'

3 testimony.

4 A I don't know.

5 Q All right. Look, if you would, at Page 16668 01:23PM

6 in the right-hand column under effects of improper

7 waste management.

8 A The last two numbers are --

9 Q 668. In the right-hand column there's a
10 heading of effects of improper waste management 01:24PM

11 water quality; do you see that heading?

12 A Yes, sir.

13 Q In that paragraph the sentence which appears
14 to be the third sentence says, however, a large
15 concentration of animals throughout a watershed can 01:24PM

16 damage a stream for miles when wastes are applied at

17 excessive rates or otherwise mismanaged. Does

18 Cargill -- in the '90's did Cargill understand that

19 statement to be true?

20 A Cargill would agree that if poultry litter is 01:24PM

21 mismanaged, water quality -- it could cause water

22 quality problems.

23 Q And did Cargill understand that to be true in
24 the '90's?

25 A Yes, sir. 01:24PM

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1 Q And what part of the '90's would we be
2 referring to that Cargill knew that?

3 A '90 -- '97, '98, '99.

4 Q On the Page 69, the next page, this document
5 which is in Dr. Barton's files says under disease, 01:25PM
6 disease transmission paragraph in the left-hand
7 column, all animal waste contains microorganisms.
8 Does Cargill believe that to be true and -- does
9 Cargill know that to be true?

10 A There are microorganisms in poultry litter. 01:25PM

11 Q And it says, these may include bacteria,
12 viruses and parasites. Does Cargill -- did Cargill
13 know that to be true in the '90's?

14 A I believe so.

15 Q Certainly this document was available to Dr. 01:26PM
16 Barton in the '90's. You would agree with that?

17 MR. WALKER: Object to the form.

18 A Sir, I don't know when Dr. Barton received
19 this.

20 Q Okay. It then goes to say, some organisms in 01:26PM
21 waste may be pathogenic, parens, disease causing,
22 end of parens, either to animals of the same species
23 or to others of different species; do you see that?

24 A Yes, sir.

25 Q Does Cargill believe that to be a true 01:26PM

1 statement?

2 **A** Poultry litter could contain some organisms
3 that could affect the turkeys, yes.

4 **Q** Okay. This says, though, some organism in
5 waste may be pathogenic or diseases causing either 01:27PM
6 to animals of the same species or to others of other
7 species. Did Cargill understand that to be true?

8 **A** To the turkey litter -- for turkeys, yes. I
9 don't know about other species.

10 **Q** Okay. Then the last sentence it says, 01:27PM
11 although the water itself may not be affected by the
12 organisms, water becomes a path for transmitting
13 diseases to animals and humans. Did Cargill know in
14 the '90's that to be true?

15 **A** I'm sorry, I don't understand the question. 01:27PM
16 If the water is not -- if it's not in the water, how
17 can it be a path? Maybe I'm misreading it.

18 **Q** Take your time and read that last sentence
19 again and then I'll ask you again if Cargill
20 believed that to be true in the '90's. 01:28PM

21 **A** Sir, I -- it could be -- I guess if the litter
22 is mismanaged and it could get into a water, it is
23 possible.

24 **Q** What is possible, that these organisms
25 become -- that the water becomes a pathway for these 01:29PM

1 organisms to transmit diseases to animals and
2 humans; is that what you are saying becomes
3 possible?

4 MR. WALKER: Object to the form.

5 A If the turkey litter has an organism in it and 01:29PM
6 if it's mismanaged and it does get into water, the
7 water -- it would be in the water. So as far as a
8 path, I don't know how long the organism lives or
9 anything else, but it is possible, yes.

10 Q Let me hand you Exhibit 82, sir. This is a 01:29PM
11 letter dated April 27th, 1998 from you to all
12 Cargill contract producers in Madison County. Do
13 you see that heading?

14 A Uh-huh.

15 Q What Madison County does this refer to? 01:30PM

16 A Where is it at?

17 Q What Madison County; is it in Arkansas?

18 A Oh, yes, yes.

19 Q Okay, and this apparently is announcing the
20 poultry environmental education program. Are you 01:30PM
21 familiar with that program?

22 A Yes, sir.

23 Q All right. It says that a two-hour program
24 has been developed to address litter handling and to
25 show we are addressing concerns for non-point source 01:30PM

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1 pollutants. What were the concerns that were being
2 addressed by Cargill to its contract growers at this
3 meeting?

4 A Cargill just facilitated this meeting. This
5 meeting was put together as an agreement between the 01:30PM

6 State of Oklahoma and State of Arkansas. At that

7 time the State of Oklahoma was having educational

8 meetings with the growers, with contract growers,

9 and they asked Arkansas to do the same thing, and

10 the State of Arkansas asked the companies to -- and 01:31PM

11 this may have been a letter or I typed it out but

12 they may have given me the information because we

13 weren't putting it on, but we were to get the

14 growers, try to get the growers there so they could

15 get basically I think the same education as or 01:31PM

16 comparable education as what the State of Oklahoma

17 was giving.

18 Q Did you attend the entire two-hour program
19 yourself?

20 A There were multiple meetings. I believe I 01:31PM
21 would have.

22 Q And if you didn't attend it at this meeting,
23 it might have been that you attended it at some
24 other meeting; is that correct?

25 A Yes, sir. 01:31PM

1 Q Now, it says we are addressing concerns for
2 non-point solution or pollutants. Let me restate
3 that. It says that you were doing this to show we
4 are addressing concerns for non-point source
5 pollutants. What are the non-point source
6 pollutants that are referred to by you in this
7 letter?

01:32PM

8 MR. WALKER: Object to the form.

9 A The way I understand the program was reading
10 or was going with is like the State of Oklahoma,
11 they were doing how do you get a nutrient management
12 plan, how do you calibrate your spreader, some best
13 management practices.

01:32PM

14 Q Are those the things you're saying that were
15 addressing the concerns?

01:32PM

16 A Yes, yes.

17 Q Well, are there any others that you can think
18 of?

19 A No, sir, no, sir.

20 Q Okay. Was this program presented to all of
21 Cargill's contract growers?

01:32PM

22 A We sent the invitation to all of our contract
23 growers, yes, sir.

24 Q Did all of Cargill's contract growers in
25 Arkansas attend at least one of these two-hour

01:33PM

1 programs that's referenced here?

2 A Sir, I can't say if 100 percent participated.

3 We had a high degree of -- a high percentage that

4 attended, but I don't remember if it was 100

5 percent.

01:33PM

6 Q Did Cargill make it mandatory for its growers

7 to attend this two-hour program?

8 A No, sir. We asked them to.

9 Q Based on your testimony this morning, it would

10 be correct that Cargill continued to spread poultry

01:33PM

11 waste from its breeder facilities on its land from

12 '98 to some years thereafter; is that correct?

13 A Yes, sir.

14 Q Did -- what did Cargill do to calibrate the

15 spreading equipment that was used?

01:34PM

16 A Cargill didn't own any spreading equipment.

17 Q Okay. What did Cargill do to assure that the

18 person spreading it had calibrated their machine?

19 A I do not -- I don't know.

20 Q Has Cargill in the past or does it now have a

01:34PM

21 team of individuals that deal with environmental

22 issues associated with its live animal production?

23 MR. WALKER: Could you read that question

24 back, please?

25 (Whereupon, the court reporter read

1 back the previous question.)

2 MR. GARREN: I'll limit it to poultry,
3 Counsel.

4 A No, sir.

5 Q Does it have -- to your knowledge does it have 01:35PM
6 a team that deals with environmental issues
7 associated with live animal production other than
8 poultry?

9 MR. WALKER: Object to the form, beyond the
10 scope of his examination. 01:35PM

11 A I don't know.

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15 01:36PM

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TULSA FREELANCE REPORTERS
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01:41PM

01:41PM

01:41PM

Q Have you seen this document, sir, in the files
of Cargill?

01:41PM

A No, sir, I've not seen this document.

Q Is Cargill, Inc., familiar with the National
Agricultural Library, Agriculture Research Service
of the U.S. Department of Agriculture?

MR. WALKER: Object to the form, beyond the

01:42PM

TULSA FREELANCE REPORTERS
918-587-2878

1 scope of this witness' testimony as designated in
2 the notice and agreed to.

3 **A** Sir, I don't know if anybody knows about that.

4 **Q** Okay, but you would agree with me, sir, that
5 as of May 5th, 2003, the date of the header of this 01:43PM
6 download from the Internet, this document was in
7 Cargill's files and produced to the State of
8 Oklahoma, would you not?

9 MR. WALKER: Object to the form.

10 **A** Yes. It looks like it came from a Cargill 01:43PM
11 file.

12 **Q** Okay, and this, having looked at it -- well,
13 let's just read the first sentence of this. It
14 says, this electronic bibliography is intended
15 primarily to provide awareness of recent 01:43PM
16 investigations and discussions of a topic. It is
17 not intended to be in depth and exhaustive. Do you
18 see that?

19 **A** Yes, sir.

20 **Q** We're looking essentially at a bibliography; 01:43PM
21 correct? That's what it says, isn't it?

22 **A** Yes, sir, that's what it says.

23 **Q** Let's look at the articles that were available
24 if somebody in Cargill chose to look at this
25 information in 2003. On Page 15438, do you see the 01:44PM

1 one at the bottom, accumulation and movement of
2 phosphorus from poultry litter application on a
3 Starr clay loam published in 1995?

4 **A** Yes, sir.

5 **Q** Do you know whether or not anybody in Cargill 01:44PM
6 sought that document out and read it or investigated
7 it or what it said?

8 MR. WALKER: Object to the form, beyond the
9 scope.

10 **A** I do not know. 01:44PM

11 **Q** Okay. Look at Page 442 in this document.

12 There's a document there titled application of
13 simplified phosphorus transport models to pasture
14 fields in northwest Arkansas, published by the
15 American Society of Agricultural Engineers in 1996. 01:44PM

16 Do you know whether or not anybody in Cargill sought
17 this document out and reviewed it for purposes of
18 Cargill's knowledge with regard to its poultry
19 operations?

20 MR. WALKER: Object to the form, beyond the 01:45PM
21 scope.

22 **A** Sir, I don't know.

23 **Q** Look at Page 444 of this document. There's
24 one in the middle there called bacterial pathogens
25 and indicators in poultry litter during 01:45PM

1 reutilization published by the Applied Poultry
2 Science, Inc., in the winter of 1995. Do you know
3 whether or not anybody in Cargill would have sought
4 this document out, educated itself about it for
5 Cargill's practices, procedures and policies with
6 its growing of poultry?

01:45PM

7 MR. WALKER: Object to the form, beyond the
8 scope.

9 A No, sir, I do not.

10 Q The next one below it says, best management
11 practices to limit non-point sources -- non-point
12 source pollution from pastures authored by Mr.
13 Moore, Mr. Daniel, Mr. Edwards. Looks like it's
14 published from the Agricultural Research Service of
15 the USDA. Do you see that document, reference to
16 that document?

01:45PM

01:46PM

17 MR. WALKER: Object to the form.

18 A It's the second one from the --

19 Q From the bottom.

20 A Yes, sir, I see that.

01:46PM

21 Q Do you know whether or not anybody in Cargill
22 sought out this document to educate itself with
23 regard to its practices, policies and procedures on
24 the growing of poultry in the IRW?

25 MR. WALKER: Object to the form, beyond the

01:46PM

TULSA FREELANCE REPORTERS
918-587-2878

1 scope.

2 A No, sir, I do not.

3 Q Look at Page 452.

4 A Page --

5 Q 452, the last three digits. 01:46PM

6 A Oh.

7 Q In the middle of the page there's an article
8 by T. C. Daniel and D. R. Edwards, entitled, edge of
9 field losses of surface applied animal manure
10 published in 1995. Do you know whether or not 01:47PM
11 anybody in Cargill would have sought this document
12 out in order to educate itself about procedures and
13 practices and policies with the -- Cargill's poultry
14 growing operations?

15 MR. WALKER: Object to the form, beyond the 01:47PM
16 scope.

17 A No, sir, I don't.

18 Q Look at Page 459. At the top of the page
19 another article published in 1995 entitled, fecal
20 bacteria and surface runoff from poultry manure in 01:47PM
21 fields. Do you know whether anybody at Cargill
22 sought this article out to educate Cargill about its
23 practices, policies and procedures for the growing
24 of poultry?

25 MR. WALKER: Object to the form, beyond the 01:48PM

1 scope.

2 A No, sir, I don't.

3 Q I'll hand you Exhibit 75 I believe. This is a

4 document published in November and December of 1991

5 by the Arkansas Soil & Water Conservation Commission

01:48PM

6 or Conservation Commission on non-point source

7 management. I'll ask you to look at Page 2 of this

8 document or Bates number 22. It says in the --

9 under the title Pope County conservation district

10 water quality technician program, it says that the

01:49PM

11 program has been funded by donations from Tyson

12 Foods and Cargill Corporation. Do you know to what

13 extent Cargill would have funded this program?

14 A No, sir.

15 Q And do you know whether or not Cargill was

01:49PM

16 provided any reports or materials or literature that

17 would have been produced as a result of this

18 program?

19 A No, sir, I do not.

20 Q In the paragraph at the bottom of that page on

01:49PM

21 the right-hand column it says, over application of

22 animal waste not only provides the potential for

23 runoff into streams but also causes a buildup of

24 phosphorus and nitrogen in the soil. Did Cargill

25 know in the early '90's that could occur?

01:50PM

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1 MR. WALKER: Can you show me where you --
2 I'm missing it. Thank you. Can you read the
3 question back?

4 (Whereupon, the court reporter read
5 back the previous question.) 01:50PM

6 A Sir, Cargill did have some BMPs in '90, '91
7 about stacking litter outside, and I think we talked
8 about it earlier, and the nitrogen for the Blue Baby
9 thing. So the nitrogen, yes. I don't know about
10 the phosphorus. 01:51PM

11 Q You, meaning Cargill, does not know in the
12 '90's whether phosphorus would build up in the soil;
13 is that what you're saying?

14 A Yes, sir.

15 MR. GARREN: One second. I apologize. 01:53PM

16 MR. WALKER: Watch your leash.

17 MR. GARREN: I apologize for that, too.
18 Can I get a longer leash?

19 MR. WALKER: Ask my wife that. You can
20 guess the answer. 01:53PM

21 Q Now, Mr. Alsup, I'm going to be handing you
22 now documents and talking substantially about
23 Cargill Turkey Production, LLC, but I may ask you if
24 that's any different or how it may have changed from
25 the Cargill, Inc., but this next set of documents 01:53PM

1 and questions are going to primarily relate to the
2 LLC. Okay?

3 A Yes, sir.

4 Q We'll try and keep it straight again,
5 recognizing our little timeline when we know the two 01:54PM
6 entities really existed.

7 A Yes, sir.

8 Q All right. I've handed you Exhibit No. 11,
9 and this is a document that has a title on it now,
10 Cargill Turkey, LLC, best management practices, and 01:54PM
11 it has a revised date of June '04 on the first page
12 lower left, but on the second page it has revised
13 September of '07. Do you know if it's Cargill --
14 the LLC's policy to put revision dates on just the
15 pages that are revised or is it intended for the 01:54PM
16 entire document since we have the discrepancy here
17 of these two dates?

18 A I would not know why there would be two
19 revision dates on there.

20 Q Does Cargill Turkey, LLC, have a best 01:54PM
21 management practices manual that's in place today
22 for its growers?

23 A Yes, sir, they do.

24 Q Is -- does LLC, when it makes revisions to its
25 manual, submit the revisions to all of its growers 01:55PM

1 where applicable to them?

2 **A** I believe, yes, sir. If it's applicable to
3 them, yes, sir, they would.

4 **Q** There are provisions in this manual that might
5 apply to -- I think you said earlier maybe a newer 01:55PM
6 grower has a newer facility but not necessarily
7 apply to an older grower with an older facility. Is
8 that true?

9 **A** Yes, sir.

10 **Q** Does Cargill do anything to advise its growers 01:55PM
11 of what improvements they should or could make to
12 their facilities that would bring them up to par
13 maybe to the ones that are newer?

14 MR. WALKER: Object to the form.

15 **A** The -- as far as new equipment or new 01:56PM
16 controllers or whatever, if the growers ask, the
17 flock supervisors could maybe tell them about if
18 another farm in their area has that new equipment or
19 new whatever it is, they could tell them about it
20 and maybe tell them how that contract grower was 01:56PM
21 liking or disliking it.

22 **Q** Does Cargill, Inc., encourage its growers to
23 upgrade their farms in order to improve performance
24 of their flock?

25 MR. WALKER: Object to the form. 01:56PM

1 Q I've got to get retrained. I apologize. Does
2 Cargill, LLC, encourage its growers to upgrade their
3 farms or equipment on their farms to improve
4 performance?

5 MR. WALKER: Object to the form.

01:57PM

6 A If a grower, contract grower doesn't have a
7 feed line that's working and it's broken most of the
8 time, yes, we would advise and hope and advise a
9 grower to either get it fixed or maybe replace it.

10 Q Other than that example that you've chosen to
11 tell us about, does Cargill, LLC, encourage its
12 growers to upgrade their farm or their equipment on
13 their farm to improve performance?

01:57PM

14 A That is a -- well, the flock supervisors are
15 there as a resource, and what's on a farm is on a
16 farm, and if a contract grower is interested in
17 getting something new, then the flock supervisor
18 could help get him the information or tell him how
19 it may be working on another farm, but as far as
20 just going out there routinely telling a contract
21 grower we think you need to upgrade, no, sir.

01:57PM

22 Q Okay. Other than this routinely adjective
23 you've placed on it, does Cargill encourage its
24 growers to improve their equipment on their farm in
25 order to enhance their performance?

01:58PM

01:58PM

1 MR. WALKER: Object to the form.

2 A Sir, if you're talking about improving
3 equipment, putting in new equipment, no, sir. If
4 the equipment is broke, I would consider that
5 improvement when they get it fixed. So, yes, they 01:58PM
6 would do that.

7 Q Okay. Maybe I should ask what I first asked
8 and I think as stated in the last one, does Cargill
9 encourage its growers to enhance their facilities in
10 order to improve performance of growing their 01:59PM
11 poultry?

12 MR. WALKER: Object to the form.

13 A No, sir, no, sir.

14 Q Is the best management practices guide or
15 handbook that Cargill gives to its growers, is it 01:59PM
16 designed to provide what is maybe described as good
17 husbandry practices for its growers?

18 A Yes, sir, I think you could consider -- you
19 could use those terms.

20 Q Look at page that ends in 231, the last three 02:00PM
21 digits. At the very bottom on Line 16 there's a
22 heading, evaluation of disease risk for contract
23 growers, Appendix 18, but when you look at the --
24 what would be apparently the table of contents on
25 Page 197 of this document, there is no Appendix 18, 02:00PM

1 nor is there one attached in this document. Does
2 Cargill know what that appendix refers to?

3 **A** Sir, I don't know; I don't know.

4 **Q** Let me hand you then Exhibit 16.

5 MR. GARREN: For the Record, I would point 02:02PM
6 out that the exhibit stickers for Cargill Turkey
7 Production have a CTP designation as opposed to CAR
8 that was used for Cargill, Inc.

9 MR. WALKER: Thank you.

10 **Q** All right. I know we've looked at some of 02:02PM
11 these forms in another area. They've been produced
12 by Cargill in what appear to be several areas in the
13 production, but I'm not going to spend much time.

14 Is this -- is the form that's called a Cargill
15 contract grower's form that we're looking at in 02:02PM
16 Exhibit 16, where is it kept or maintained, these
17 forms for the growers in the IRW?

18 **A** It would be in a computer and then the
19 hatchery would have one and the feed mill would have
20 one. 02:03PM

21 **Q** When you say they have one, would they have
22 one in a hard copy or would they have one in
23 electronic form that they could access in the
24 computer?

25 **A** I don't know how they would -- either or. 02:03PM

1 Q When you said earlier, talking about this
2 similar form in a different exhibit, that as far as
3 you can remember, this has been around Cargill,
4 Inc., does -- has this always been in a computerized
5 form or has it been in some other form? 02:03PM

6 MR. WALKER: Object to the form.

7 A I don't know if we used computers in the mid
8 '80's. We've always had a driving -- as long as I
9 know, we've had a driving instruction page.

10 Q And when you had that page, would it have the 02:04PM
11 same information on it that we're seeing on the
12 first page of this that has the stuff we talked
13 about earlier, the house descriptions?

14 A I don't know about the house descriptions. It
15 would have had the name of the contract grower and 02:04PM
16 driving instructions and a phone number.

17 Q All right. The bin capacity column that's at
18 the bottom right, that's the feeder bin capacity
19 that's on the farm if it's filled in?

20 A The feed -- yes, that's the feed bins that's 02:04PM
21 on a house.

22 Q The silo-looking thing that sits outside the
23 house that holds the feed?

24 A Yes, sir.

25 Q All right. Let's find an example I want you 02:04PM

1 to look at. Let's just look at -- these are
2 numbered, at least part of it. At 231 there's a
3 dash 1, which is about a half a page in, the last
4 three digits, 231-1. It's for Breeder Farm No. 1.

5 A Okay.

02:05PM

6 Q On this particular breeder farm there are two
7 laying houses, a tom barn -- it says Item No. 3, and
8 then there's additional language, molt house; do you
9 see that?

10 A Yes, sir.

02:06PM

11 Q Is that a separate structure as indicated by
12 the width and length that's shown here?

13 A Yes, sir.

14 Q Tell the court what you do with a molt house
15 on a breeder farm.

02:06PM

16 A Well, I don't know why they call it a molt
17 house, but as hens are in production, they lay a
18 clutch of eggs. Their tendency is to, Mother
19 Nature, want to sit on those eggs and incubate them
20 and, you know, we're collecting the eggs every day.
21 So at a certain time some of these hens -- they call
22 it going broody. They will remove a hen and pull
23 them out of the house and put them into a little
24 structure like this to get them kind of away from
25 the nest and kind of shake them up and give them a

02:06PM

02:07PM

1 new surrounding and make them try to forget about
2 wanting to sit on eggs and hatch them, and then they
3 spend a couple or three days in there, and then
4 they're returned back to the production house.

5 Q Kind of like a timeout, isn't it? 02:07PM

6 A It's kind of like a timeout, yes, sir, and
7 like I say, I don't know why it's a molt house, but
8 anyway that's my understanding of that.

9 Q There's another set of docs that are similar,
10 but see if you can find Page 158578. It's going to 02:07PM
11 be about this far in.

12 A 158 --

13 Q It has numbers at the top, too.

14 MR. WALKER: Dash one?

15 MR. GARREN: Yeah, dash one. 02:08PM

16 Q Go to the header.

17 MR. WALKER: I think you are too far.

18 A Am I too far?

19 Q Yeah, I think you are. Now go back three more
20 and you're there. All right. You're there. 02:08PM

21 A Okay.

22 Q The date in the upper left-hand corner, do you
23 know if that's when this is printed or is that put
24 in there when it's created, if you know?

25 A Sir, I don't know what that date -- I don't 02:08PM

1 know what that date means. I don't know.

2 Q Okay. This particular farm or Cargill
3 contract grower sheet has the number of year,
4 actually it's at Column N-O dot year built. Do you
5 see that column?

02:09PM

6 A Yes, sir.

7 Q That's different than the ones we've seen on
8 the previous ones; do you agree?

9 A Yes.

10 Q When did Cargill start tracking that data?

02:09PM

11 A I don't know if it would have been before '04
12 or '05. It was something one of the production
13 managers would have put in there, but it would be --
14 '03, '04 time frame maybe.

15 Q Okay, and I see a couple dated '04 that follow
16 this page that you're now looking at. In the upper
17 left-hand corner, there are some dated '04; do you
18 see that?

02:09PM

19 A Yes, sir.

20 Q What was the purpose for tracking that data?

02:09PM

21 A The only thing I could see -- know why they
22 would want to use it is to look at the age of
23 structures or the age of the contract farms.

24 Q Is there any particular reason why that would
25 be important?

02:10PM

1 **A** I do not know what use that would have.

2 **Q** Okay. Go to the very last -- it isn't the
3 very last. After the 158578 document, which is --
4 it has --

5 **A** Is that the one we were just on? 02:10PM

6 **Q** Yeah, but it goes to 117. The extra little --
7 the last page is 117. See if there's a spreadsheet
8 in your documents. Okay. There it is. I'll
9 represent to you this is similar to something we've
10 seen earlier in the sense that it's a spreadsheet, 02:11PM
11 and the only way to prepare this is to print it out
12 in very small type so that we could at least see it
13 today.

14 **A** Yes, sir.

15 **Q** But it's electronically provided by Cargill to 02:11PM
16 the State of Oklahoma?

17 **A** Okay.

18 **Q** So it has a Bates number 158579, and I don't
19 know whether yours has it on there or not. The tab
20 there, that number right there -- 02:11PM

21 **A** Okay.

22 **Q** -- was added to show that's the document.

23 **A** Okay.

24 **Q** Do you know who would have prepared this?

25 **A** No, sir, I would not. 02:11PM

1 Q And, again, do you have any reason to know why
2 it was prepared?

3 A No, sir, I do not.

4 Q Who would in Cargill, LLC, know? I say LLC
5 because at the top it has an October 2004 date. 02:11PM

6 A Jim Ward would have been the production
7 manager.

8 Q He would likely be the person to know about
9 this document?

10 A Yes, sir. 02:12PM

11 MR. GARREN: Let's take a break. We're out
12 of tape.

13 VIDEOGRAPHER: We're now off the Record.
14 The time is 2:11 p.m.

15 (Following a short recess at 2:12 p.m., 02:12PM
16 proceedings continued on the Record at 2:23 p.m.)

17 VIDEOGRAPHER: We are back on the Record.
18 The time is 2:23 p.m.

19 Q Mr. Alsup, earlier we looked at this document,
20 CTP 18, and it's the registration forms for the LLC. 02:24PM
21 You stated in your testimony that you kept this form
22 in the computer and you left certain information in
23 it because it didn't change. Do you remember that?

24 A Yes, sir.

25 Q Is the information that you leave constant in 02:24PM

1 that include the soil test phosphorus values for all
2 fields?

3 A Well, my great idea didn't work because they
4 changed this form every year. So I entered it in
5 the computer for this year hoping to save work for 02:25PM
6 later, and it changes. So I don't put it in the
7 computer anymore.

8 Q So which of these forms would have information
9 that would have been in the computer and stayed
10 there for use? Are you telling me only -- that none 02:25PM
11 of these do that? I'm confused.

12 A No. What I'm trying to say -- I don't know
13 what year this is. Whatever year this was for
14 registration, I had the NRCS office E-mail me a
15 version, and I typed it up, you know, so I wouldn't 02:25PM
16 have to retype in Cargill breeder farm, the farm
17 number every year. I thought this would be great,
18 and I got the information from Charlie Delap and
19 printed it off. We gave it in to them, and the next
20 year they changed the form again. So I -- 02:26PM

21 Q Looking at the lower left-hand corner, there's
22 a date 12-8-03. Is that the same date on yours?

23 A 12 -- mine says 3-21-07.

24 MR. WALKER: He's not on the same page.

25 161032? 02:26PM

1 MR. GARREN: Mine may be in a different
2 order. There's -- the one I referred to for some
3 reason --

4 MR. WALKER: And which page is that?

5 MR. GARREN: That was the 145307. 02:26PM

6 Q And the page that follows that, this page that
7 we're on, 307, go to the next page, and you see the
8 different day at the bottom of that one on the same
9 form?

10 A The 12-28-05? 02:27PM

11 Q Yes, sir.

12 A Yes, sir.

13 Q Do you have an explanation why in this same
14 form you'd have a different date on it?

15 A That would have been -- sir, I didn't create 02:27PM
16 this form. This came from NRCS. So what they sent
17 me, all I was doing was plugging in general
18 information. I never put any dates on it.

19 Q Do you know a Gail Sparks?

20 A Yes, sir. She is the lady that -- I don't 02:27PM
21 know her exact title, a clerk or a secretary or
22 something that works at the NRCS office.

23 Q Okay. I see her name and a date on the 161032
24 page, which is your first page at the lower
25 left-hand corner. 02:28PM

1 **A** Yes, sir.

2 **Q** Okay. So, again, so I'm clear, you attempted
3 to insert material that could be simply repeated and
4 because of the change of the form after you did that
5 the first year, you were no longer able to do that
6 any subsequent years; is that true?

02:28PM

7 **A** Yes, sir, that is true.

8 **Q** Okay.

9 MR. WALKER: Watch the leash.

10 **Q** Let me hand you Exhibit 44 and ask you to look
11 at that and tell me if you know what that is.

02:29PM

12 **A** No, sir, I don't know what that is.

13 **Q** Who in Cargill would know?

14 **A** Looks like an accounting.

15 **Q** Do you have any recollection or knowledge
16 about a system called contract master maintenance?

02:30PM

17 **A** No, sir, I do not.

18 **Q** Do you see on this form that this tells you
19 flock type, start date, head started, whether it's
20 female or male?

02:30PM

21 **A** Yes, sir.

22 **Q** Okay, and do you know who would access this
23 kind of computer data or have a need to look at this
24 report as we're seeing this?

25 **A** I don't know. It looks like an accounting

02:30PM

1 deal of Brenda Roe.

2 Q If you wanted information that's contained in
3 the computer, do you have access to it or are you
4 required to contact somebody in accounting to pull
5 that data from the computer?

02:31PM

6 A Somebody in accounting pulls that data.

7 Q Do you have a computer on your desk that you
8 utilize in your work?

9 A Yes, sir.

10 Q And is that computer linked to a central
11 server, if you know?

02:31PM

12 A Yes, sir. I think there's a local server for
13 Springdale.

14 Q Do you know about might be an intranet or
15 system referred to as My Turkey?

02:31PM

16 A My turkey? Yes, I've heard of My Turkey.

17 Q And do you use that in your daily functions at
18 any time?

19 A No -- no, sir, I do not use My -- do I have to
20 get -- I may have to go to My Turkey to get to the
21 intranet but --

02:31PM

22 Q Do you know there are documents and forms that
23 are readily available to others on the My Turkey
24 intranet?

25 MR. WALKER: Object to the form.

02:32PM

1 **A** Sir, there may be. I haven't gone out there
2 to find out what's on there.

3 **Q** Do you know whether or not the best management
4 practices manual is stored there for people to
5 access it? 02:32PM

6 **A** I do not.

7 **Q** Let me hand you Exhibit 7, Mr. Alsup. Do you
8 know a gentleman by the name of Spearman that works
9 with Cargill, Inc., or Cargill, LLC?

10 **A** Yes, sir, I know him. 02:33PM

11 **Q** What does he do?

12 **A** I think he is over plant operations.

13 **Q** And the plant operations are what kind of
14 plant?

15 **A** The processing plant. 02:34PM

16 **Q** Okay. Is he working there now for LLC?

17 **A** Yes, he is a present employee.

18 **Q** Okay. Did he work for Cargill, Inc., also
19 prior to '04?

20 **A** Yes, he was an employee beforehand. 02:34PM

21 **Q** Do you know who would have prepared this
22 information sheet concerning the Springdale feed
23 mill?

24 **A** Okay, what was your question?

25 **Q** Do you know who would have created this? 02:35PM

1 **A** It would have been somebody at the mill.

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1 for the capacity utilization of Springdale complex
2 changed in the past?

3 MR. WALKER: Object to the form.

4 A No. Our -- the growers we've had, I mean
5 we've had. I guess what I'm trying to say is we 02:37PM
6 haven't got growers from another complex that was
7 added to our complex. Is that what you're asking?

8 Q Or the reverse, that a certain pocket of area,
9 growers exist there, are moved from the Springdale
10 complex to be associated with a different complex 02:38PM
11 and their needs supplied from that different
12 complex?

13 MR. WALKER: Object to the form to the
14 extent this is asking for corporate organizational
15 information. Answer, if you can. 02:38PM

16 A Sir, not in the past. There's been a recent
17 acquisition of Willow Brook.

18 Q Okay.

19 A I know they've talked about it. I don't know
20 if they've done it yet. 02:38PM

21 Q Okay. At this point the birds that were
22 previously grown by Willow Brook are not
23 incorporated into the operations in the Springdale
24 complex?

25 A No, sir. 02:38PM

1 Q Do you anticipate the location of those birds
2 would be serviced in the Springdale complex if that
3 occurs?

4 MR. WALKER: Object to the form, beyond the
5 scope.

02:39PM

6 A Sir, I don't know how they are planning on
7 doing the -- I know there's been talk, but I don't
8 think anything has been completed.

9 Q Okay. When we talked earlier, you said that
10 approximately 75 percent of the growers in the
11 Springdale complex are outside the IRW. Is that
12 what I recall correctly?

02:39PM

13 A Yes, sir, as a rough estimate.

14 Q I understand that. So if I were looking at
15 this feed mill information sheet and apply that,
16 then roughly 25 percent of 120 farms would be in the
17 Springdale complex?

02:39PM

18 A Yes, sir.

19 Q Okay. Does -- this says that you received
20 most all corn and soybean meal via railcar. Is that
21 true today for the LLC?

02:40PM

22 MR. WALKER: Object to the form. That
23 appears to be Topic 20 for CTP, which is reserved
24 for another witness.

25 MR. GARREN: You're right. That's fine.

02:40PM

1 Q Let me hand you Exhibit 24. This is an E-mail
2 from Timothy Maupin to Gregory Engelke. Is that how
3 he pronounces it?

4 A I believe it's Engelke.

5 Q I've heard it two different ways now, so I 02:41PM
6 don't know. You know who we're talking about when
7 we're talking about Mr. Engelke?

8 A Yes, sir.

9 Q What does he do?

10 A He is a nutritionist. 02:41PM

11 Q Okay, and this is the same Jonathan Spearman I
12 think you identified just moments ago that's listed
13 also as a recipient of this E-mail?

14 A Yes, sir.

15 Q All right. Are you familiar with the company 02:42PM
16 called Allech or Altech? I think there's a
17 misspelling there.

18 A No, sir, I don't know who Altech is.

19 Q This first sentence under that portion of the
20 E-mail string that shows it's from Mr. Maupin says, 02:42PM
21 does our high level of animal protein explain the
22 high levels of soluble P in our litter samples. Got
23 this response from Allech it says. Thanks, Tim. Do
24 you know what he's talking about when he's talking
25 about high levels of animal protein? 02:42PM

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1 MR. WALKER: Object to the form, beyond the
2 scope of testimony for this witness.

3 MR. GARREN: This would be constituents of
4 waste.

5 MR. WALKER: I believe if you look at this 02:43PM
6 document, it's feed ingredients.

7 MR. GARREN: Well, if you look at this
8 document, it actually says he's talking about high
9 levels of soluble P in litter samples. That would
10 be poultry waste. 02:43PM

11 MR. WALKER: If you are going to ask about
12 the litter samples, that's fine. I think you are
13 talking about animal protein, which is feed.

14 MR. GARREN: There needs to be a predicate,
15 Counsel. 02:43PM

16 Q Are you familiar with this subject, sir?

17 MR. WALKER: Same objection.

18 A No, sir. I don't know anything about feed
19 ingredients.

20 Q Not you, sir, Cargill, Inc. Is Cargill, Inc., 02:43PM
21 concerned at this time with regard to its high
22 levels of soluble P for some reason?

23 A Sir, the only -- I have never measured soluble
24 P.

25 Q Are you saying I, Cargill, LLC? 02:43PM

1 **A** In my research for this, I have not seen any
2 testing litter for soluble P. The litter tests are
3 just the basic litter tests.

4 **Q** Doesn't that contradict what we're reading
5 here when he, Mr. Maupin, is referring to high 02:44PM
6 levels of soluble P in our litter samples?

7 MR. WALKER: Object to the form, beyond the
8 scope.

9 **A** Sir, I don't understand what information he's
10 pulling this from. I don't know. 02:44PM

11 **Q** Do you know whether or not Cargill, Inc., has
12 undertaken any investigation with regard to the
13 level of soluble P in its litter samples?

14 MR. WALKER: Same objection.

15 **A** I have never tested litter for soluble P. 02:44PM

16 **Q** No, sir. Cargill, Inc. My question to you is
17 Cargill, Inc., or Cargill, LLC.

18 **A** To my knowledge Cargill, Inc., or Cargill
19 Turkey Production, LLC, has not tested for soluble
20 P. 02:45PM

21 **Q** Does Cargill, Inc., know that, as stated here,
22 P levels in turkey litter is three times higher than
23 in broiler litter?

24 MR. WALKER: Object to the form.

25 **A** We are in -- I have not seen any documents for 02:45PM

1 broiler litter in reviewing for this case in
2 Cargill, so -- or for Cargill Turkey Products, LLC.

3 Q Okay. Let's look to the next page of this
4 document, 106135. This looks like it's an E-mail
5 from Susan Watkin or Watkins I believe at University 02:46PM
6 of Arkansas. Do you know that name?

7 A Yes, sir, I do know that name.

8 Q And it appears that she's writing to Mr.
9 Gregory Engelke on July 7th, 2004; do you see that?

10 A Yes, sir. 02:46PM

11 Q Okay, and it appears that the original message
12 from her to Mr. Engelke falls below that. Oh, I've
13 misstated. I've reversed that. It appears that Mr.
14 Engelke's E-mail to her is the lower portion of this
15 string based upon his signature on the last page at 02:46PM
16 106136; do you see that, his signature line?

17 MR. WALKER: Object to the form.

18 A Yes, sir.

19 Q All right. So I'm trying to establish who
20 authored this part of it, but he's writing to Miss 02:47PM
21 Watkins or Dr. Watkins, I forget her title, at
22 University of Arkansas, and in the second paragraph
23 it says, need to pick your mind on some of the
24 phosphorus litter readings from northwest Arkansas.
25 Been visiting with our Springdale operation and am 02:47PM

1 hearing some high numbers coming up on the soluble
2 phos levels on the turkey litter versus the broiler
3 litter, two times plus levels. Do you see that?

4 A Yes, sir.

5 Q He's inquiring about high phosphorus litter 02:47PM
6 readings. How would he get those without sampling
7 it?

8 MR. WALKER: Object to the form.

9 A I don't know.

10 Q Let me hand you Exhibit 25, please. This 02:47PM
11 appears to be an E-mail that involves Mr. Jim Ward,
12 who you've identified and talked about earlier,
13 Jonathan Spearman we talked about, and Mr. Greg
14 Engelke, dated August 16th, 2004. So this comes a
15 month or so after the one we just saw in Exhibit 24. 02:48PM
16 It appears -- I'm trying to get this straight. Do
17 you know a B. Hargis at University of Arkansas,
18 Billy Hargis, DVM, PhD?

19 A Yes, sir. I believe there's a Dr. Hargis at
20 the University of Arkansas. 02:49PM

21 Q Okay. This talks about phosphorus reduction
22 and laboratory studies. What does LLC know about
23 those laboratory studies on phosphorus reduction?

24 MR. WALKER: Object to the form, beyond the
25 scope of this witness' testimony. 02:49PM

1 MR. GARREN: Okay. I believe we have a
2 category with regard to communication from the
3 University of Arkansas. This would, I think, fall
4 in that category.

5 MR. WALKER: The substance of this is about 02:49PM
6 feed, and there's another witness for that.

7 Q Was Cargill, LLC, in August of 2004 concerned
8 about lowering phosphorus levels in its feed, if you
9 know?

10 MR. WALKER: Object to the form, scope. 02:50PM

11 A I do not know.

12 Q Who would know?

13 A Tim Maupin.

14 Q In looking at this document, based upon your
15 counsel's unsolicited statement, is this about feed 02:50PM
16 or litter, the subject of these two pages we're
17 looking at?

18 MR. WALKER: Object to the form.

19 A I don't know what whey permeate is, but whey
20 could be used as a feeding ingredient. 02:51PM

21 Q Is Cargill, LLC, at this time concerned about
22 changing its diet in order to reduce a phosphorus
23 output into the poultry waste?

24 MR. WALKER: Object to the form, object to
25 the scope. 02:51PM

1 **A** Sir, I -- if this is a nutrition -- I mean if
2 this is a nutrition trial, which that's what it
3 looks like it is --

4 **Q** Let me ask you this, a pretty fundamental
5 question for LLC. Does diet have anything to do
6 with what is produced in the excrement by its birds?

02:51PM

7 MR. WALKER: Object to the form.

8 **A** I am not a nutritionist but, yes, what goes
9 into the bird and how it's absorbed and turned into
10 meat would make a difference on the excrement.

02:52PM

11 **Q** And is it Cargill Turkey, LLC's goal to lower
12 the phosphorus in excrement of its birds?

13 MR. WALKER: Object to the form, scope.

14 **A** Sir, I'm not a nutritionist and I don't
15 understand how all these ingredients -- you're
16 asking me how things work and work in a bird, and I
17 don't know that.

02:52PM

18 **Q** You were designated to identify the
19 composition constituents of poultry waste generally
20 and of poultry waste generated at your poultry
21 growing operations within the IRW, specifically past
22 and present, as well as study, analysis, testing or
23 research of the composition or constituents of
24 poultry waste, including without limitation,
25 identification of any difference between turkey and

02:53PM

02:54PM

1 chicken excrement, were you not, sir, as Inquiry No.
2 25?

3 A Yes, sir.

4 Q Okay. Now, is LLC concerned with diet for
5 purposes of modifying the constituents of the 02:54PM
6 poultry waste generated in the IRW?

7 MR. WALKER: Object to the form, beyond the
8 scope of this witness' testimony.

9 A Sir, I don't understand how -- if you want to
10 talk about litter testing, yes, I understand that. 02:54PM
11 This is a nutritional question.

12 Q Look at exhibit -- I'm sorry.

13 A They're obviously looking at doing a study or
14 talking about doing a study and of reducing
15 ingredients or increasing ingredients. That's what 02:55PM
16 it appears to be.

17 Q Let's read again then, sir, if you would,
18 Paragraph 2 on Page 106135, if you would. It
19 says --

20 MR. WALKER: What page? 02:55PM

21 MR. GARREN: I'm looking at Exhibit 24.

22 MR. WALKER: That's helpful. What page?

23 MR. GARREN: 135.

24 Q This talks about in July 7, 2004 in that
25 second paragraph, high numbers coming up on the 02:55PM

1 soluble phosphorus levels on the turkey litter
2 versus the broiler litter; do you see that, sir?

3 A Yes, sir.

4 Q All right, and do you see where this also
5 talks about two years ago using phytase in the 02:55PM
6 Springdale diets three paragraphs below that?

7 A Yes, sir.

8 Q Would you agree with me that phytase was
9 introduced into the diet of the birds?

10 MR. WALKER: Object to the form, beyond the 02:56PM
11 scope.

12 A To my knowledge it was.

13 Q Okay, and if we go back to Exhibit 25, we're
14 talking about, are we not, reducing phosphorus from
15 the diet. You agree that's what this document is 02:56PM
16 basically talking about?

17 MR. WALKER: Object to the form, beyond the
18 scope.

19 A Sir, from the E-mail, it looks like they're
20 running experiment on whey permeate. 02:57PM

21 Q Let me ask you this then, sir: Is it Cargill,
22 LLC's position in 2004 that it had no concern
23 into -- as to the level of the soluble phosphorus
24 excreted by its birds?

25 MR. WALKER: Object to the form, beyond the 02:58PM

1 scope.

2 **A** Sir, I have not -- we have not tested that I'm
3 aware of soluble P. This looks like a nutritional
4 study with a whey permeate.

5 **Q** Let me ask you this: Mr. Alsup, in your 02:58PM
6 preparation for this 30(b)(6) deposition, in
7 particular Area 25 that I read to you earlier, did
8 you limit your preparation for this deposition with
9 regard to the constituents of waste where it might
10 have been connected to ingredients or nutritional 02:58PM
11 studies of the diet of the bird?

12 **A** Could you repeat that question?

13 **Q** Did you refuse to look at the diet or
14 nutritional studies in preparing for your questions
15 related to the constituents of the waste produced by 02:59PM
16 the birds in preparing for the 30(b)(6)?

17 MR. WALKER: Object to the form, object to
18 the scope.

19 **A** It was my understanding that nutrition -- I
20 did not look at any nutritional documents. 02:59PM

21 **Q** Did you look at any documents related to
22 nutrition that had an effect on the generation or
23 the constituencies of the poultry waste?

24 MR. WALKER: Same objection.

25 **A** No, sir. 02:59PM

1 Q Would you agree with me, sir, that it's
2 important to know what a bird eats to determine to
3 some degree what is the constituents of the
4 excrement that's being produced?

5 MR. WALKER: Same objection, object to the 03:00PM
6 scope.

7 A Sir, what -- it -- whatever a bird eats, how
8 it's utilized -- how it is utilized, I -- we measure
9 it in the litter, but that's where I was focused on,
10 the end. I wasn't focused on or I didn't research 03:00PM
11 any documents that -- that started with the
12 excrement that actually comes out of the bird.

13 Q As a result of what appears to be some studies
14 conducted relative to nutrition and feed as
15 represented by counsel for Cargill today, is 03:01PM
16 Cargill, LLC, conducting studies for the purposes of
17 lowering phosphorus output in the excrement of its
18 birds?

19 MR. WALKER: Object to the form, beyond the
20 scope. 03:01PM

21 A I don't know.

22 Q Is it -- Mr. Alsup, let me hand you Exhibit
23 43. This is an E-mail again. This is from Kara
24 Robinson apparently at the Springdale complex. Do
25 you recognize that name? 03:04PM

25	A	I was just reading it. I'm sorry.	03:06PM
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1 MR. WALKER: Take your time and finish
2 reading if that's what you need to do.

3 A Okay. It looks like an action list, yes, sir.

4 Q So the second page of Exhibit 43 you believe
5 to be the action list that's so referenced in the 03:06PM
6 E-mail in the first page of the exhibit?

7 A Yes, sir. If it came in that E-mail, it would
8 be attached to it, yes, sir.

9 Q Well, that's not what I'm asking, sir, because
10 I can't tell the way these documents were produced 03:07PM
11 to us if this was in fact the document that's
12 attached. I'm asking you to tell me if you know
13 that it is.

14 A No, sir, I don't know.

15 Q Okay. Do you know what the document is, which 03:07PM
16 is the second page of Exhibit 43?

17 A This looks like just some bullet points of
18 kind of what was -- I don't know what time frame
19 this is, but the agreement by Arkansas, which I
20 don't know who with, it looks like Arkansas is kind 03:08PM
21 of agreeing to do that -- those five things. The
22 industry -- the next thing is the industry is
23 agreeing to do or to work on those five things, and
24 it kind of looks like where the Cargill -- where it
25 says Cargill, it has some -- 03:08PM

1 Q Let me --

2 A Some things that were going on.

3 Q Let me ask you a question, sir, because you're

4 not helping get to where we need to be. I

5 apologize. Let's see if we can cut to the chase.

03:09PM

6 Under agreement by industry, Item No. 2,

7 company-owned farms will follow CNMPs. Do you know

8 that to be comprehensive nutrient management plans,

9 that acronym?

10 A Yes, sir.

03:09PM

11 Q All right. When did the company-owned farms

12 follow comprehensive nutrient management plans?

13 A Our company-owned farms I do not believe have

14 ever had a CNMP.

15 Q Okay. So at this point -- this says they will

03:09PM

16 follow it, so that was -- we can't tell from that

17 what date this is, can we?

18 A No, sir.

19 Q And is there any plans today for the

20 company -- again, I'm not sure what company is

03:09PM

21 referring to here either -- that this company will

22 in fact -- that the company will follow CNMPs?

23 MR. WALKER: Object to the form.

24 Q Are there plans in effect today to follow

25 CNMPs?

03:10PM

1 **A** There are NMPs. I do not know of any forms
2 that have CNMPs.

3 **Q** When you say any forms, is that in response to
4 my question or is it referring to Cargill forms or
5 any farms? 03:10PM

6 **A** I'm talking about Cargill, contract,
7 independent contract farms.

8 **Q** Let's read that again with me, would you,
9 please. Company-owned farms will follow CNMPs. Do
10 you see that now? 03:10PM

11 **A** Yes.

12 **Q** Okay. Talking about only company-owned
13 farms --

14 **A** Okay.

15 **Q** -- do they follow today CNMPs? 03:10PM

16 MR. WALKER: Object to the form, asked and
17 answered.

18 **A** They do not have a CNMP.

19 **Q** Okay. Let's look at the Cargill list. Maybe
20 that will help us narrow this down. Is alum 03:11PM
21 currently used in brooder houses?

22 **A** No, sir.

23 **Q** Has it been used in brooder houses in the
24 past?

25 **A** In brood houses? Yes. 03:11PM

1 Q I'm reading from Paragraph 2. The first
2 sentence in Paragraph 2 under Cargill, do you see
3 that sentence?

4 A Alum is currently being used in brooder
5 houses. 03:11PM

6 Q All right, and you're telling me today it's
7 not; correct?

8 A Yes, sir, that is correct.

9 Q When did it cease being used in brooder
10 houses? 03:11PM

11 A I think that was a program for about a year.

12 Q That doesn't help tell me when it happened.

13 A I'm not done yet. I don't remember if it was
14 the year '03, '04 time frame I believe.

15 Q That's the time frame it quit being used, '03
16 or '04? 03:12PM

17 A That's the time frame it would have been used,
18 and it was used about a year.

19 Q So it ended sometime in '04 is what you're
20 telling me? 03:12PM

21 A Yes, sir, to the best of my knowledge.

22 Q Okay, and this E-mail that is the first page
23 of this document is dated June 17th, 2004. That's
24 sixteen days after the formation of LLC; correct?

25 A Yes, sir. 03:12PM

1 Q And based upon your estimate of when alum was
2 no longer being used, it would be on or about that
3 time, would it not?

4 A Yes.

5 Q Okay. When was there an estimated cost made 03:12PM
6 for use of alum at \$250,000 a year; do you recall
7 that being done?

8 A It would have been about that time.

9 Q Okay. This says, current recommendations for
10 complete clean-out is two years. This could be 03:13PM
11 moved to every three years by following good
12 cake-out procedures between flocks. Are the
13 cake-out procedures that are referred to different
14 than could have been employed three years ago, two
15 years ago? 03:13PM

16 MR. WALKER: Object to the form.

17 Q Any time in the past?

18 A As far as I know, the cake-out procedures have
19 not changed.

20 Q Okay, and this refers to the -- by following 03:13PM
21 good cake-out procedures, does that mean just
22 improving your cake-out procedures, that you could
23 extend the time in which the litter remains in the
24 house between clean-outs?

25 MR. WALKER: Object to the form. 03:13PM

A Well, sir, I don't -- I don't know who wrote this. When you cake out a house, you cake out the house. I don't know if it's talking about going in there with a pitchfork or -- I don't know.

Q Mr. Alsup, you're here today as a designated representative for Cargill, Inc., and LLC. Can you tell me, sir, whether the cake-out procedures just being better or did they change in order to increase the possibility of leaving litter longer in the house?

MR. WALKER: Object to the form.

A I believe I said that the cake-out procedures have not changed.

Q Okay. So all this refers to is if you do it better, you can leave it in longer; would you agree with that?

A It looks like that's what it says.

Q What did Cargill do at any time before 2004 to improve the cake-out procedures to allow litter to stay longer in the houses?

A Sir, cake-out is done with a machine, and the machine I guess -- the job is as good as the machine is and the operator.

Q What did Cargill do any time before 2004 to improve the cake-out procedures to allow litter to

1 stay longer in the houses?

2 MR. WALKER: Object to the form.

3 A I do not know of anything that they have done.

4 Q What is the current procedure -- let me back

5 up. Has anything been done since June 2004 to 03:15PM

6 improve the cake-out procedures in order to allow

7 litter to stay longer in the houses?

8 MR. WALKER: Object to the form.

9 A No, sir. Those procedures have not changed.

10 Q The next paragraph under Item 4 says, Cargill 03:16PM

11 would be a litter coordinator between the contract

12 producers and litter haulers. What was that

13 referring to?

14 A I'm assuming if a contract producer would like

15 to sell his litter to somewhere other than or 03:16PM

16 utilize his litter somewhere other than what was

17 going on and he needed a contact, that we could get

18 him in touch with those contacts.

19 Q Other than the BMPs program and your dealing

20 with Mitch Moore on the hauling of waste, what has 03:16PM

21 Cargill done to be a litter coordinator between its

22 producers, which are growers, and litter haulers?

23 A We have gotten -- for the growers that have

24 asked, we have gotten them in touch with BMPs.

25 Q So all you do is give them a name and a 03:17PM

1 number?

2 A Uh-huh.

3 Q Is that a yes?

4 A Yes, sir.

5 Q This goes on to say, the contract haulers 03:17PM

6 would be contracted with and through Cargill. Does

7 Cargill do that?

8 A No, sir.

9 Q It then says, may have to subsidize the
10 contract haulers to get them to take our producers' 03:17PM

11 litter. Has at any time Cargill subsidized contract
12 haulers to get them to take the producers' litter?

13 A No, sir.

14 Q Other than the Precision Ag program that we've
15 talked about before, what market has been developed 03:17PM
16 to take the litter as referenced in the next
17 sentence in Paragraph 4?

18 MR. WALKER: Object to the form.

19 A The only market that I'm aware of is BMP.

20 Q Okay. Has the -- has Cargill marketed a 03:18PM
21 product through its fertilizer business/unit. It
22 says B/U. I assume that means business unit.

23 A Okay.

24 Q Has Cargill marketed product through its
25 fertilizer business unit to your knowledge? 03:18PM

1 MR. WALKER: Object to the form, beyond the
2 scope of this witness' designated testimony.

3 A I do not know.

4 MR. GARREN: We need to take a break and
5 tape change, and I'll review my notes and we'll see 03:18PM
6 how -- we're about done now; we're close.

7 VIDEOGRAPHER: We're now off the Record.
8 It's 3:18 p.m.

9 (Following a short recess at 3:18 p.m.,
10 proceedings continued on the Record at 3:32 p.m.) 03:32PM

11 VIDEOGRAPHER: We are back on the Record.
12 The time is 3:32 p.m.

13 Q Mr. Alsup, I have a few kind of catch-all
14 questions I'd like to ask you about that will kind
15 of bring together the Cargill, Inc., questions and 03:32PM
16 Cargill, LLC, questions. So in that frame, let me
17 ask you, since June of 2004 what has Cargill Turkey
18 Production, LLC, its agents or employees done
19 different from what Cargill may have done to
20 ascertain the location where poultry waste or its 03:33PM
21 constituents generated by CTP growing operations has
22 run off from land within the IRW?

23 MR. WALKER: Object to the form.

24 A We have not run any tests.

25 Q Okay. I'm going to ask the question again -- 03:33PM

1 actually have it read back to you. Listen to it
2 because I didn't ask whether you've done just tests,
3 okay?

4 (Whereupon, the court reporter read
5 back the previous question.)

03:34PM

6 **A** We have done nothing different.

7 **Q** Okay. Same question, a little bit different.

8 Since June 2004 what has Cargill Turkey, LLC, or its
9 agents or employees done in addition to what

10 Cargill, Inc., may have done to ascertain the
11 location where poultry waste or its constituents
12 generated by Cargill Turkey, LLC, growing operations
13 has run off from land within the IRW?

03:34PM

14 MR. WALKER: Object to the form.

15 **A** We have done nothing different.

03:34PM

16 **Q** The question was in addition to, not
17 different. Have you done anything in addition to
18 what Cargill, Inc., may have done to ascertain the
19 location of poultry waste generated by its growing
20 operations to have run off from land within the IRW?

03:34PM

21 **A** No, sir.

22 MR. WALKER: Object to the form.

23 **Q** What has Cargill Turkey, LLC, its employees or
24 agents done different from Cargill, Inc., to
25 evaluate or quantify any environmental and human

03:35PM

1 health effects from the discharge or release of
2 poultry waste from land or locations within the IRW
3 on which poultry waste was generated by your poultry
4 growing operations and have either been stored or
5 spread or disposed of? 03:35PM

6 MR. WALKER: Object to the form.

7 A We have done nothing different.

8 Q Same question. What has Cargill Turkey, LLC,
9 done in addition to what Cargill, Inc., may have
10 done in its efforts to evaluate or quantify 03:35PM
11 environmental or human health effects from land or
12 locations within the IRW on which poultry waste
13 generated by your growing operations has been
14 stored, spread or disposed of?

15 MR. WALKER: Object to the form. 03:36PM

16 A We have not done anything additional.

17 Q All right. What has Cargill Turkey, LLC, or
18 its agents or employees done differently than
19 Cargill, Inc., to determine the environmental and
20 human health impact -- health effects or impacts of 03:36PM
21 runoff from land or locations within the IRW on
22 which poultry waste has been generated by your
23 poultry growing operations have been either stored,
24 spread or disposed of?

25 MR. WALKER: Object to the form. 03:36PM

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1 **A** We have done nothing different.

2 **Q** And same question. What has Cargill Turkey,
3 LLC, or its agents or employees done in addition to
4 what Cargill, Inc., may have done to determine
5 environmental or human health effects or impacts
6 from runoff from land or locations within the IRW on
7 which poultry waste generated by your poultry
8 growing operation has been stored, spread or
9 disposed of?

03:36PM

10 MR. WALKER: Object to the form.

03:37PM

11 **A** We have done nothing additional.

12 **Q** What has Cargill Turkey, LLC, its employees or
13 agents done differently to what Cargill may have
14 done to become aware of runoff of poultry waste or
15 its constituents from land where it has been spread
16 in the IRW?

03:37PM

17 MR. WALKER: Object to the form.

18 **A** We have done nothing different.

19 **Q** If I asked that same question with regard to
20 where waste had been stored as opposed to spread, is
21 your answer the same?

03:37PM

22 MR. WALKER: Object to the form.

23 **A** Yes, sir.

24 **Q** What has Cargill Turkey, LLC, or its employees
25 or agents done in addition to what Cargill, Inc.,

03:38PM

1 may have done to become aware of runoff of poultry
2 waste or its constituents from land where it has
3 been spread or stored in the IRW?

4 MR. WALKER: Object to the form.

5 **A** We have not done anything additional. 03:38PM

6 **Q** As a designee for Cargill, LLC, and Cargill,
7 Inc., is it your opinion that the operation for the
8 LLC since June of '04 has essentially been the same
9 as it was when Cargill, Inc., was operating the
10 poultry growing operations? 03:38PM

11 MR. WALKER: Object to the form.
12 Objection, beyond the scope for this witness.

13 **A** I do not know if there were any changes.

14 **Q** When the transition occurred from Cargill,
15 Inc., to Cargill Turkey, LLC, were the contract 03:39PM
16 forms used before June 1, 2004 essentially the same
17 as those that were used after June 1, 2004?

18 MR. WALKER: Object to the form, beyond the
19 scope for this witness.

20 **A** I don't know of any changes. 03:39PM

21 **Q** Okay. Can you tell me what practices,
22 policies, recommendations, procedures that Cargill
23 Turkey, LLC, changed with regard to the management,
24 handling, storage, spreading of poultry waste
25 generated by your poultry growing operations in the 03:40PM

1 IRW from what Cargill, Inc., was using?

2 MR. WALKER: Object to the form, and I'd
3 ask you to read that question back and ask the
4 witness to listen carefully.

5 (Whereupon, the court reporter read 03:41PM
6 back the previous question.)

7 A Can you read it one more time?

8 (Whereupon, the court reporter read
9 back the previous question.)

10 A I know of no changes. 03:41PM

11 Q Okay.

12 MR. GARREN: I'll pass the witness.

13 MR. WALKER: Let's take a break for a
14 moment, please.

15 VIDEOGRAPHER: We're now off the Record. 03:41PM
16 The time is 3:41 p.m.

17 (Following a short recess at 3:41 p.m.,
18 proceedings continued on the Record at 3:56 p.m.)

19 VIDEOGRAPHER: We are back on the Record.
20 The time is 3:56 p.m. 03:56PM

21 CROSS EXAMINATION

22 BY MR. WALKER:

23 Q I have just a short segment of questions for
24 Mr. Alsup. Mr. Alsup, can you take -- put Exhibit
25 63, CAR 63 before you, please. If you would turn to 03:56PM

1 140660, I'd like to ask you a few questions about
2 your testimony earlier with regard to some
3 statements on this page. Below the section called
4 health concerns, the first paragraph there are two
5 sentences. Do you see those?

03:57PM

6 A Yes, sir.

7 Q Do you recall giving testimony on behalf of
8 Cargill with regard to those two sentences?

9 A Yes, sir.

10 Q Do you remember being asked if Cargill agreed
11 with the statement in the first sentence?

03:57PM

12 A Yes, sir.

13 Q Do you recall what your answer was?

14 A Yes, sir.

15 Q What was your answer?

03:57PM

16 A No, we do not agree.

17 Q Have you had a chance to go back and look at
18 that statement since giving that testimony earlier
19 today?

20 A Yes, sir.

03:57PM

21 Q Having done that, what is -- do you have an
22 answer to that question that's different than your
23 answer earlier?

24 A Yes, sir.

25 Q Okay. Tell me then, does Cargill, Inc., agree

03:58PM

1 that all animal manures are a potential of
2 disease-causing organisms?

3 A Yes, they have the potential.

4 Q And why is it that you initially said no in
5 your answer earlier today?

03:58PM

6 A I misread it.

7 Q With regard to the second sentence, same kinds
8 of questions, have you had an opportunity to look at
9 the second sentence of that paragraph on Page
10 140660?

03:58PM

11 A Yes, sir.

12 Q Does Cargill, Inc., agree that pathogens can
13 infect humans through contact with a contaminated
14 water source?

15 A Yes, sir, we believe that is possible.

03:58PM

16 Q And why is that answer now different than the
17 answer that you gave earlier?

18 A I skipped over can, and I just misread it.

19 Q Mr. Alsup, do you have some recollection of
20 the last question that Mr. Garren asked you during
21 your direct examination?

03:59PM

22 A Yes, sir.

23 Q I'll confess, I can't remember the entirety of
24 the question, but I'll ask you, do you believe that
25 you fully understood that question?

03:59PM

1 MR. GARREN: Objection, leading.

2 A No, sir.

3 MR. GARREN: Self-serving.

4 Q Why didn't you understand that question?

5 A It was a very long and complicated question. 03:59PM

6 Q Have you been able to give what you recall of
7 that question some thought here in the last few
8 minutes anyway?

9 A Yes, sir.

10 Q I'd like to ask you, do you believe that with 04:00PM
11 regard to Cargill's breeder farms, that anything
12 changed with regard to how litter was managed since
13 2004?

14 A Yes, sir.

15 Q And can you tell me with respect to that part 04:00PM
16 of the question, what that is, what changes those
17 were?

18 A We have been hauling the litter out of the
19 watershed since '05.

20 Q To the extent that you can recall and 04:00PM
21 understand the question, what is it that you would
22 have to do to provide a full answer to the last
23 question that Mr. Garren asked during his direct
24 examination?

25 A If I could have the question and go read it 04:00PM

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1 and study it and I'd have to go back and check and
2 see what we are doing, I mean back in my office and
3 just sit there and think about it, look at some
4 documents and see what those differences were.

5 Q Do you believe that you've given testimony at 04:01PM
6 various times over the last two days as to issues
7 that relate to that question?

8 A Yes, sir.

9 Q With regard to the growers' management of
10 litter, for example, as a topic that may be subsumed 04:01PM
11 under that question, are you aware of any changes in
12 what Cargill growers have done with regard to how
13 they manage litter?

14 A We do have some contract producers that are
15 hauling litter out of the watershed with BMPs, Inc. 04:01PM

16 Q Are there any growers that are hauling out
17 litter pursuant to Cargill's agreement with the
18 Oklahoma Scenic Rivers Commission?

19 A That would be part of that, yes, that -- well,
20 they're using BMPs, Inc., and we do have an 04:02PM
21 agreement with the Oklahoma Scenic River Commission
22 to haul out litter out of the watershed.

23 Q Do you believe in the course of this
24 deposition and the setting of this deposition that
25 you were given a full and fair opportunity to 04:02PM

1 respond to Mr. Garren's last series of lengthy
2 questions?

3 MR. GARREN: Objection, leading.

4 A I would like to have more time, but could you
5 ask that question one more time? 04:02PM

6 Q Do you believe in the setting of this
7 deposition that you were given a full and fair
8 opportunity to respond to the last series of lengthy
9 questions that Mr. Garren offered in this
10 deposition? 04:03PM

11 MR. GARREN: Objection, leading.

12 A No.

13 MR. WALKER: That's all I have.

14 MR. GARREN: Mr. Alsup --

15 MR. WALKER: Any questions from anybody 04:03PM
16 else at the table?

17 MR. GARREN: Sorry.

18 MR. BOND: None from Tyson.

19 MR. HIXON: Nothing from Petersons.

20 MR. GRAVES: Nothing from George's. I'm 04:03PM
21 figuratively at the table.

22 MR. BOND: You're actually on the table.

23 MR. TUCKER: You're actually on the table.
24 That's exactly right.

25 MR. GRAVES: Maybe we should make the 04:03PM

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1 Record clear about that.

2 MR. TUCKER: Better than under the table.

3 REDIRECT EXAMINATION

4 BY MR. GARREN:

5 Q Mr. Alsup, when you testified in June of 2008 04:03PM
6 in your individual deposition, I asked you the
7 question whether or not you had previously had an
8 opportunity to be prepared for the originally
9 scheduled April 2008 30(b)(6) deposition, and you
10 stated you were fully prepared. Do you remember 04:03PM
11 that question and answer?

12 A I remember I said that I was being prepared.
13 I don't --

14 Q With regard to your preparation today, you
15 were given specifically both the subject matter of 04:04PM
16 inquiry for Cargill, Inc., and Cargill Turkey, LLC,
17 which included in that the subject matter,
18 practices, policies, recommendations and procedures,
19 past and present, pertaining to the management,
20 handling, storage, transportation, sale, trading, 04:04PM
21 spreading on land, disposition and disposal of
22 poultry waste generated by your poultry growing
23 operations in the IRW, were you not?

24 A Yes, sir.

25 Q All right. Now, based on that, you would 04:04PM

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1 expect that you would be asked, would you not, for
2 each entity what those practices, policies, et
3 cetera, that are stated therein and be prepared to
4 answer questions as to those subjects; correct?

5 **A** Yes, sir.

04:05PM

6 **Q** Are you telling the court today that you were
7 not so prepared in order to answer those questions
8 on that subject for each entity today?

9 **A** No, sir.

10 **Q** Let me ask you this then: What practices did
11 CTP, LLC, change from that which Cargill was
12 employing regarding the management, handling,
13 storage, spreading on land of poultry waste
14 generated by the poultry growers -- by your poultry
15 growing operations in the IRW?

04:05PM

16 MR. WALKER: Object to the form.

17 **Q** What practices has CTP changed or added to
18 those that were previously employed by Cargill,
19 Inc., regarding its handling of poultry waste
20 generated by your poultry growing operations in the
21 IRW?

04:06PM

22 MR. WALKER: Object to the form.

23 **A** With the breeder farms, company-owned?

24 **Q** Company-owned and/or contract growers.

25 MR. WALKER: Same objection.

04:06PM

1 **A** The company-owned farms, as stated before,
2 were hauling the litter out of the watershed since
3 '05. Dead bird compost has stopped being applied.
4 In fact, incinerators are going to be used for
5 mortality.

04:07PM

6 **Q** Are going to be used?

7 **A** Yes, sir.

8 **Q** So they're not all being used now?

9 **A** No, sir.

10 **Q** No, sir, they're not being used?

04:07PM

11 **A** They're in process of being delivered.

12 **Q** All right. So they're not all in use now?

13 **A** No, sir.

14 **Q** They are all in use today?

15 **A** No, sir, they're not.

04:07PM

16 MR. WALKER: I think he's still trying to
17 answer your first question.

18 **A** And part of hauling the litter or the
19 agreement with Oklahoma Scenic Rivers Commission
20 using BMPs, Inc., to meet that agreement, to help
21 meet that agreement. That is all I can think of
22 right now for the breeder operations.

04:08PM

23 **Q** And same question with regard to your contract
24 growers. What practices -- when I use the word
25 change, why don't we try to make this a little

04:09PM

1 shorter and if you need to modify your answer
2 because of it, let me know. When I use the word
3 change, can we agree that it means different from or
4 in addition to that which Cargill, Inc., was doing;
5 can you understand it that way? 04:09PM

6 **A** Yes, sir.

7 **Q** Okay. So what practices were changed with
8 regard to your handling, storage or spreading on
9 land poultry waste generated by your contract
10 poultry growing operations in the IRW? 04:09PM

11 MR. WALKER: Object to the form. Would you
12 read the question again, please?

13 (Whereupon, the court reporter read
14 back the previous question.)

15 **A** For the state of Arkansas growers, they're 04:10PM
16 required to follow the new rules and regulations
17 that were passed by the State. I don't know.

18 **Q** Okay. If I asked you the same question with
19 regard to procedures, would your answer be
20 essentially the same or do you believe that to be a 04:11PM
21 significantly different question?

22 **A** Okay. What do you mean by procedures?

23 **Q** Okay. Other than practices. I'm just trying
24 to compare it. I'll just ask it and you can answer
25 the question. It will make it easier. What 04:11PM

1 procedures have changed, which we talked about again
2 how that is defined, different than or in addition
3 to what Cargill, Inc., was doing with regard to the
4 handling, storage or spreading on land of poultry
5 waste generated by your poultry growing operations
6 in the IRW?

04:11PM

7 MR. WALKER: Object to the form.

8 A Sir, I don't -- I really don't understand the
9 difference between a practice and a procedure. What
10 are you talking about by a procedure?

04:12PM

11 Q Well, you don't understand a practice is
12 different than a procedure? I'm happy to use the
13 term interchangeably if you believe it that way.

14 A No. Our procedure of how mortality is handled
15 has changed. Our procedure for -- and that was on
16 the breeder farms. Our procedure for how the litter
17 and who removes the litter has changed for the
18 breeder farms. Our procedure for where the turkey
19 litter goes has changed. The procedure for our
20 contract farms, independent contract farms, other
21 than asking them to utilize BMPs as much as
22 possible, which would be new for them, that's all I
23 can think of.

04:12PM

04:13PM

24 Q The procedure that you say is different with
25 regard to where the litter goes, what are you

04:14PM

1 referring to?

2 **A** That the litter is no longer being applied in
3 the IRW.

4 **Q** What policies have changed, meaning are
5 different from or in addition to those employed by 04:14PM
6 Cargill, Inc., regarding the handling, storage or
7 spreading on land of poultry waste generated by your
8 poultry growing operations in the IRW, and I'll
9 couch that and say other than what you've testified
10 to earlier today if that makes it easier? 04:15PM

11 **MR. WALKER:** Object to the form, and that
12 makes it a lot easier, Counsel.

13 **A** Nothing different, nothing that I've tested
14 to, nothing different than what I've tested to
15 earlier. 04:15PM

16 **Q** Tested to, you mean testified to?

17 **A** I'm sorry, testified to earlier.

18 **Q** All right. Other than the testimony that you
19 gave earlier with recommendations, what changes,
20 meaning those that are different from or in addition 04:15PM
21 to those previously made by Cargill, Inc., have been
22 employed regarding the storage, handling, spreading
23 on land of poultry waste generated by your poultry
24 growing operations in the IRW?

25 **MR. WALKER:** Object to the form. 04:15PM

A Can I hear the question?

MR. WALKER: Can you read that back again, please?

(Whereupon, the court reporter read
back the previous question.)

Q All right. Now, you testified that the composting of dead birds before is now different. What was done with composted dead birds before?

A It was applied.

A It was land applied.

Q And when you use the term compost, does that include poultry waste or litter and dead bird carcasses?

A There is some litter. There's some shavings
and some dead birds.

Q Okay. Is the change with regard to the composted dead birds and litter applicable to only the breeder farms?

A We -- it is still up to the contractors to
decide if they want to use rendering, incinerating
or composting method.

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1 Q Okay. My question is, is the change that you
2 referred to that has occurred, is it applicable at
3 this time only to the breeder farm?

4 MR. WALKER: Object to the form.

5 A Yes, it is for the breeder farm, the 04:17PM
6 production farm, the egg production farm.

7 Q With regard to the contract growers, do you
8 know whether or not -- let me ask you this: Are the
9 recommendation or requirements of Cargill, LLC, as
10 to the contract growers the same, that they should 04:18PM
11 change and not land apply composted birds and
12 litter?

13 MR. WALKER: Object to the form.

14 MR. BULLOCK: You need to restate that one.

15 MR. GARREN: I'll restate it. 04:18PM

16 Q Does Cargill, LLC, require its contract
17 growers to use -- to not land apply composted dead
18 birds and litter?

19 MR. WALKER: Object to the form.

20 A No, sir. 04:18PM

21 Q Does it request or recommend that its contract
22 growers not land apply composted dead birds?

23 MR. WALKER: Object to the form.

24 A No, sir.

25 Q Why is Cargill, LLC, treating its composted 04:18PM

1 dead birds differently than it did before with
2 Cargill, Inc., or whenever that change occurred?

3 A It's easier operationally to do. With the new
4 incinerators that they're making, it's more
5 efficient time-wise, energy-wise. It's just a
6 better method than what we've had than what the
7 incinerators have been in the past.

04:19PM

8 Q Are incinerators located on each breeder farm?

9 A We have had incinerators on the breeder farms.
10 They've been doing a dual system. It's -- they've
11 had incinerators, poor ones or not very efficient
12 but we've had them, and they've been composting
13 some, too.

04:20PM

14 Q Okay. Does each breeder farm have its own
15 incinerator is probably a better question?

04:20PM

16 A Sir, I think 1 and 2 and 3 and 4 have their
17 own incinerators, have incinerators.

18 Q Are the birds from 5 and 6 moved, the dead
19 bird -- the carcasses, are they moved from 5 and 6
20 to be incinerated at the other locations of the
21 breeder farms?

04:20PM

22 A No, sir. Presently they're being composted.
23 Their incinerators are not working --

24 Q All right.

25 A -- or hasn't worked.

04:21PM

1 Q At this point the change only applies to four
2 breeder farms out of the six with regard to not
3 composting and land applying; is that what you're
4 saying?

5 MR. WALKER: Object to the form. 04:21PM

6 A No, sir. We've always had incinerators at the
7 breeder farms, but it's been a dual method. It's
8 been -- they use both.

9 Q Go ahead. I'm sorry.

10 A They use both methods and now we're going to 04:21PM
11 rely totally on the incinerators.

12 Q Is the -- Farms 5 and 6 are the dead birds
13 that are composted, are those still being land
14 applied?

15 A No, sir, they are not. 04:21PM

16 Q All right, and with regard to the dead --

17 A I'm sorry. Could you ask that statement one
18 more time?

19 Q Are the composted dead birds from Farms 5 and
20 6 being land applied? 04:22PM

21 A Where?

22 Q Anywhere.

23 A They -- eventually they will be land applied
24 outside the IRW.

25 Q All right. Are they -- composted dead birds 04:22PM

1 from Farms 1 through 4 land applied?

2 A Not presently, but they will be land applied
3 outside the IRW.

4 Q Okay. Is this land applied after they've been
5 incinerated?

04:22PM

6 A No. This is just the part that is composted.

7 Q Okay. Is the reason for that because the new
8 incinerators you referred to have not yet been
9 installed at any of the breeder farms?

10 A Yes, sir.

04:22PM

11 Q All right. Is there a scheduled date by which
12 the new breeder farms will have -- not the new. Is
13 there a scheduled date by which the breeder farms
14 will have the new incinerators in place and
15 operational?

04:23PM

16 A I do not know if there's a date or when
17 they're going to be manufactured.

18 Q Okay. So have they been ordered, the new
19 incinerators?

20 A I do not know.

04:23PM

21 Q Who would know if the new incinerators had
22 been ordered?

23 A Jason Witt.

24 Q Were the composted dead birds, when they were
25 applied, applied within the IRW in the past by LLC?

04:23PM

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1 approached us to see if we would voluntarily export
2 out of the IRW a certain amount of litter over I
3 think it was a four-year period. They also asked
4 for a donation for -- so they could use the money
5 for restrooms and I think there was some soil bank,
6 riverbank reclamation or buying or something, and
7 Cargill was participating in that.

04:26PM

8 Q Is the hauling out that's occurring being
9 conducted under the BMPs, Inc. -- we've referred to
10 it as program?

04:26PM

11 A In most cases it is.

12 Q If it's not being conducted by BMPs, Inc., how
13 is it occurring that the haul-out of poultry waste
14 from the IRW --

15 MR. WALKER: Object to the form.

04:26PM

16 A I have talked to I know three of our producers
17 that have been hauling out of the -- they're kind of
18 on the edge, and they've kind of been hauling either
19 all or part of their litter out of the watershed
20 anyway.

04:27PM

21 Q Who are those three producers you're referring
22 to?

23 A Bob Schwabe, Gary Fisher, and Norman Findahl.

24 Q And do you know what it is -- are they using a
25 contract service to haul the poultry waste from

04:27PM

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1 their facilities?

2 A I do not know their -- I do not know how they
3 are doing that.

4 Q So all you know is that they told you they are
5 doing that? 04:27PM

6 A Yes, sir.

7 Q And how long have they been doing it?

8 A I don't know.

9 Q Does anybody else have any -- does Cargill,
10 LLC, have any documentation evidencing what it is 04:27PM
11 they have done to haul waste from the IRW?

12 A No, sir.

13 Q Did they just start doing that in 2008?

14 A No, sir.

15 Q When did they start? 04:28PM

16 A Sir, I don't know. It's been a practice of
17 theirs for a while.

18 Q And do you know when they said they haul it
19 out, are they hauling all of it out or just part of
20 it that's produced on their facilities? 04:28PM

21 A I don't know the specifics. So part of it.

22 Q Is the waste that they say they are hauling
23 out credited to Cargill, Inc., as part of the
24 agreement with the Oklahoma Scenic Rivers
25 Commission? 04:28PM

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1 **A** We have told -- yes, we have used that.

2 **Q** So I think I've seen some type of a press
3 release where there has been a total waste haul-out
4 credit taken by the industry in some form. Is that
5 what you're talking about, that project being
6 connected to the Scenic Rivers?

04:29PM

7 **A** If it was connected to the Scenic Rivers, yes,
8 sir.

9 **Q** And as far as you know, waste that's hauled by
10 BMP is not part of that program or it is part of
11 that program?

04:29PM

12 **A** It is part of that program.

13 **Q** Okay.

14 MR. GARREN: I have nothing else.

15 MR. WALKER: Nothing further.

04:29PM

16 MR. GARREN: Thank you, Mr. Alsup.

17 VIDEOGRAPHER: This concludes the
18 deposition of Mr. Tim Alsup. We're now off the
19 Record. The time is 4:29 p.m.

20 (Whereupon, the deposition was
21 concluded at 4:29 p.m.)

SIGNATURE PAGE

I, Tim Alsup, do hereby certify that the foregoing deposition was presented to me by Lisa A. Steinmeyer as a true and correct transcript of the proceedings in the above styled and numbered cause, and I now sign the same as true and correct.

WITNESS my hand this _____ day of _____, 2008.

TIM ALSUP

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2008.

Notary Public

My Commission Expires:

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CORRECTIONS TO THE DEPOSITION OF
TIM ALSUP 30(b)(6)
Volume II

PAGE AND LINE NUMBER	CORRECTION
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